

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSAN BEALS, in her Official Capacity as
Commissioner of the Virginia Department of
Elections,

Defendant.

No. 3:26-cv-00042
(Hon. Roderick C. Young)

**UNOPPOSED MOTION OF COMMON CAUSE AND KATHERINE ELLENA
TO INTERVENE AS DEFENDANTS**

Common Cause and Katherine Ellena (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). Declarations in support of this Motion are included as Exhibits to this Motion. A memorandum setting forth the facts and legal argument necessary to support their motion is being filed concurrently herewith. *See* L.R. 7(F)(1). A proposed motion to dismiss by way of a response to the United States’ Complaint is appended to the memorandum as required by the Rules. *See* Fed. R. Civ. P. 24(c). Proposed Intervenors reserve the right to supplement their response to the Complaint within the time allowed for response by Rule 12 after intervention is granted.

The United States consents to Proposed Intervenors' intervention. Counsel for Defendant has not yet appeared.

Proposed Intervenors are entitled to intervene as of right under Rule 24 because this motion is undisputably timely, because both their rights and interests are at stake, and because those rights and interests are not adequately represented by the existing Defendant. In this action, the United States seeks unfettered and total access to the most sensitive aspects of Virginia's non-public voter data, which the United States is poised to use in order to harass and potentially disenfranchise voters. Proposed Intervenors have an extremely strong interest in preventing the United States' requests. Proposed Intervenors are Common Cause, a non-partisan, non-profit organization dedicated to grassroots voter engagement and protecting voting rights and civil rights in Virginia, whose own work and whose members' rights are at risk by the relief sought by the United States in this case, as well as Ms. Ellena, an individual Virginia voter whose personal, private data is at risk in this litigation. Proposed Intervenors' unique interests in this case, their unique perspective, and their unique motivation to interrogate the purpose of the United States' sweeping request for non-public Virginia voter data will ensure the full development of the record here and aid the Court in its resolution of this case.

In the alternative, and for many of the same reasons, the Court may also grant permissive intervention pursuant to Rule 24(b).

A proposed order is appended to this Motion.

CONCLUSION

The Court should grant the Motion to Intervene as Defendants as of right, or in the alternative, via permissive intervention.

Dated: January 30, 2026

Respectfully submitted,

/s/ Davin Rosborough

Ari J. Savitzky*

Davin Rosborough (Va. Bar No. 85935)

Sophia Lin Lakin*

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

125 Broad Street, 18th Floor

New York, NY 10004

Tel.: (212) 549-2500

Facsimile: (212) 549-2539

asavitzky@aclu.org

drosborough@aclu.org

slakin@aclu.org

Patricia J. Yan*

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

915 15th Street NW

Washington, DC 20005

Tel.: (202) 457-0800

pyan@aclu.org

Counsel for Common Cause and Katherine Ellena

** application for admission pro hac vice forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on January 30, a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record who have appeared and by email on counsel for the United States.

/s/ Davin Rosborough

EXHIBIT A

DECLARATION OF SUZANNE ALMEIDA

Pursuant to 28 U.S.C. § 1746, I, Suzanne Almeida, 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 am a member of Common Cause. As a full-time member of Common Cause's staff, I currently serve as a Vice President, States. I have served in this role and a substantially similar role since May 2022 and have been a member of Common Cause's staff since July 2018.

3. I directly oversee a number of states and support Common Cause work across the country, including in the Commonwealth of Virginia, to protect voting rights, promote ethical government, and hold power accountable. In my role as Vice President, States, I also engage with Common Cause's policy, organizing, and external affairs staff to advance pro-voter, pro-democracy policy. I work with multiple coalitions to advance pro-voter reforms and increase civic engagement, including the national Election Protection Coalition.

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

5. 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. As of this writing, there are approximately 20,678 members of Common Cause in the Commonwealth of Virginia. These members also likely include voters who are more likely to be mistakenly caught up in the federal government's efforts to remove voters from the rolls, including voters with felony convictions, voters who have moved within Virginia or left the state and then returned, voters who are naturalized citizens, voters who vote by mail, and other voters whose identifying information is particularly important to keep private due to some other heightened need for privacy.

6. 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.

7. In the Commonwealth of Virginia, Common Cause ensures that voters' voices are heard in the political process. Our members reside throughout the Commonwealth and include registered voters whose personal information is maintained in the Commonwealth of Virginia Department of Elections voter registration database. If the Commonwealth of Virginia discloses the unredacted voter registration file to the U.S. Department of Justice, 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 the Commonwealths' elections.

8. Common Cause believes the right to vote is the cornerstone of a functioning democracy. We are committed to ensuring that every Virginia voter can register and cast their ballot with a focus on communities who experience additional barriers to participation including Black people, Indigenous Peoples, Latina/o people,

Asian/Pacific Islanders, other people of color, young people, and people with disabilities. Part of that work is to counter anything that could chill participation in the election process, including attempts to gather personal voter data by individuals not authorized to access it.

9. Through our legislative advocacy, Common Cause has ensured that voting in the Commonwealth has remained as secure as possible, while expanding access to the ballot. For example, in 2023-2024, we lobbied and mobilized our membership in support of bills in both chambers to guarantee voting rights for returning citizens, including the right to register to vote.

10. Common Cause works to ensure that once registered, all voters can cast a ballot. Through our Election Protection program, for example, we have provided training to organizations and volunteers to equip them to support voters on Election Day and assisted voters through the Election Protection hotline, including answering questions on registering to vote in Virginia.

11. As a nonpartisan democracy reform and good government organization, Common Cause assists eligible Virginia voters in registering to vote, verifying, and/or updating their voter registration through outreach to our members in the Commonwealth. For example, on National Voter Registration Day, Common Cause members in Virginia received notices from us urging them to register to vote and/or to verify their registration status, and many did. As a result, voters we assist are added to the official Virginia Department of Elections voter file, and we consider it our duty to safeguard the trust they place in us and in the democratic process. 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.

12. We also run targeted communications campaigns, including through social media, to keep our members in Virginia informed about key election deadlines and updates. These efforts amplify official messages from the Virginia Department of Elections helping ensure voters have accurate, timely information to participate confidently in our democracy.

13. Disclosure of the entire, unredacted Virginia Department of Elections voter file would undermine Common Cause's work and risk harm to our members. 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 used to challenge their eligibility to vote would chill participation in the democratic process. This is especially true for voters in marginalized communities who already face systemic barriers and distrust government surveillance.

14. Additionally, disclosure of the complete Virginia Department of Elections voter file would facilitate unsubstantiated voter challenges, a concern especially for vulnerable communities. Improper and flawed mass-challenge programs disproportionately target voters who lack stable housing or traditional addresses. 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 disclosed to the federal government and used to promote mass disenfranchisement, Common Cause will be forced to redirect resources to mitigate disenfranchisement among existing voters and away from its core activities of voter registration and voter engagement in the democratic process.

15. If the Commonwealth of Virginia 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 29th day of January 2026, in Philadelphia, Pennsylvania.



Suzanne Almeida
Vice President, States of Common Cause

EXHIBIT B

DECLARATION OF KATHERINE ELLENA

Pursuant to 28 U.S.C. § 1746, I, Katherine Ellena, hereby 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 currently reside in Great Falls, Virginia, and I am an eligible, registered voter in Virginia.
3. I am originally from New Zealand, and previously worked as a diplomat with the New Zealand Ministry of Foreign Affairs and Trade. Through my work overseas, I met a United States citizen in 2009, and after marrying him in 2011, we moved to the United States in July 2011, first to California, and then to Virginia in April 2013, where I have resided since that time.
4. When I first came to the United States, I was a legal permanent resident. In March 2015, I became a naturalized citizen of the United States. The most important part of becoming a naturalized citizen for me was the right (and responsibility) of participating in the democratic process in the United States, and I have been voting in elections in Virginia since I naturalized.
5. I have spent the majority of my career supporting democratic governance and electoral integrity globally, based on the established human right to universal and equal suffrage. I have experience working on a neutral and non-partisan basis with election commissions, oversight bodies, tribunals, and courts in over 30 countries, and have helped design election dispute

resolution systems, refine elections laws and administrative rules, and deliver training on election litigation. I have supported peer exchange visits of election officials and judges from around the world to learn about election processes in the United States and am a special advisor to the bi-partisan Standing Committee on Election Law at the American Bar Association.

6. When I learned that the federal government had requested Virginia's complete statewide voter registration file, including sensitive personal information, I became deeply concerned about how this data might be used. I am particularly worried that naturalized citizens like myself could be particularly vulnerable to unfounded allegations of illegal voting, wrongly removed from the voter rolls, or subject to discriminatory barriers to registration.
7. I care deeply about the privacy of my personal data. Government collection and use of personal information is subject to strict legal limits and voter registration systems must protect eligible voters from erroneous removal, even as they maintain accurate lists. I also believe in the integrity of the electoral system as a whole and the importance of ensuring that process is implemented in a way that is as inclusive and accessible as possible for every eligible voter. This means that the process of registration and voting must be free from intimidation or chilling effects, and that no qualified voter should be unjustly removed from registration lists or otherwise prevented from exercising their political rights.

8. Naturalized citizens have deliberately chosen to make the United States their home, and for us the right to cast a ballot carries profound legal and personal significance—especially for those who have not been able to meaningfully exercise fundamental political rights in their country of birth, which I have witnessed firsthand in my work. Federal law in the United States guarantees that once naturalized, we enjoy the same right to vote as any other citizen. Many naturalized citizens place great trust in the integrity and transparency of the American electoral system. We deserve firm assurance that our participation—and our personal information—will be protected.

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

Executed January 29, 2026 in Great Falls, Virginia.



Katherine Ellena

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RICHMOND DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSAN BEALS, in her Official Capacity as
Commissioner of the Virginia Department of
Elections,

Defendant.

No. 3:26-cv-00042
(Hon. Roderick C. Young)

[PROPOSED] ORDER

Common Cause and Katherine Ellena (collectively, “Proposed Intervenors”) 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). Plaintiff the United States consents to the motion.

Proposed Intervenors are a non-partisan public interest organization dedicated to democracy and civic life in Virginia and an individual Virginia voter. Their motion, which was filed approximately two weeks after the action was commenced, is timely. Proposed Intervenors have demonstrated that they have protectable interests in the subject matter of the lawsuit which will be threatened by the relief sought, and their interests may not be adequately represented by the existing defendant. The Court grants Proposed Intervenors’ motion pursuant to Rule 24(a).

Intervenors may file a response to the Complaint within three days. Otherwise, the motion to dismiss, which was appended to their motion pursuant to Rule 24(c), will be deemed filed as their response to the Complaint.

SO ORDERED.

_____, 2026

Hon. Roderick C. Young

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UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSAN BEALS, in her Official Capacity as
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Defendant.

No. 3:26-cv-00042
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**MEMORANDUM OF LAW IN SUPPORT OF
COMMON CAUSE AND KATHERINE ELLENA's
MOTION TO INTERVENE AS DEFENDANTS**

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Am. Farm Bureau Fed’n v. EPA, 278 F.R.D. 98 (M.D. Pa. 2011) 17

Berger v. N.C. State Conference of the NAACP, 597 U.S. 179 (2022)..... 10, 16, 17

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Brown Inv. Advisory & Tr. Co. v. Allen, No. 19-cv-2332, 2020 WL 5798365 (D. Md. Sept.
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Brumfield v. Dodd, 749 F.3d 339 (5th Cir. 2014)..... 15

City of Greensboro v. Guilford County Board of Elections, No. 15-cv-559, 2015 WL
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Donald J. Trump for President, Inc. v. Boockvar, No. 4:20-cv-2078, 2020 WL 8262029
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Feller v. Brock, 802 F.2d 722 (4th Cir. 1986) 10

Friends of the Cap. Crescent Trail v. U.S. Army Corps of Eng’rs, No. 19-cv-106, 2019
 WL 3238749 (D. Md. July 18, 2019).....11, 16, 19

Grutter v. Bollinger, 188 F.3d 394 (6th Cir. 1999) 15

In re Sierra Club, 945 F.2d 776 (4th Cir. 1991)..... 18

Judicial Watch, Inc. v. Ill. State Bd. of Elections, No. 24-C-1867, 2024 WL 3454706
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Judicial Watch, Inc. v. Pennsylvania, No. 1:20-cv-708 (M.D. Pa. Nov. 19, 2020) 20

Kobach v U.S. Election Assistance Comm’n, No. 13-cv-04095, 2013 WL 6511874 (D.
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LaRoque v. Holder, 755 F. Supp. 2d 156 (D.D.C. 2010) 14

Makhteshim Agan of N. Am., Inc. v. Nat’l Marine Fisheries Serv., No. 18-cv-0961, 2018 WL 5846816 (D. Md. Nov. 8, 2018)..... 12, 19

PA Fair Elections v. Pa. Dep’t of State, 337 A.3d 598 (Pa. Commw. Ct. 2025)..... 6

Pub. Int. Legal Found., Inc. v. Winfrey, 463 F. Supp. 3d 795 (E.D. Mich. 2020)..... 14

Selcuk v. Pate,
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Spring Construction Co. v. Harris,
614 F.2d 374 (4th Cir. 1980).....11

Stuart v. Huff, 706 F.3d 345 (4th Cir. 2013)..... 10, 18

Teague v. Bakker, 931 F.2d 259 (4th Cir. 1991)..... 12, 16

Texas v. United States, 798 F. 3d 1108 (D.C. Cir. 2015)..... 14

Thomas v. Andino, 335 F.R.D. 364, 371 (D.S.C. 2020) 20

Tirrell v. Edelblut,
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T-Mobile Northeast LLC v. Town of Barnstable, 969 F.3d 33, 40 (1st Cir. 2020) 16

Trbovich v. United Mine Workers of Am., 404 U.S. 528, 538 n.10 (1972) 16

United States v. Amore,
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United States v. Cargill Meat Solutions, No. 22-cv-1821, 2025 WL 1257931 (D. Md. Apr. 30, 2025)11

United States v. Galvin,
No. 1:25-cv-13816-LTS (D. Mass. Jan. 6, 2026).....11

United States v. Hanzas,
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United States v. Nago,
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United States v. Oliver,
No. 1:25-cv-1193-LF-JFR (D.N.M. Dec. 19, 2025).....11

United States v. Scanlan,
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United States v. Schmidt,
 No. 2:25-cv-1481-CB (W.D. Pa. Jan. 16, 2026)11

United States v. Simon,
 No. 0:25-cv-3761-KMM-EMB (D. Minn. Jan. 6, 2026)11

United States v. Weber,
 No. 2:25-cv-9149-DOC-ADS (C.D. Cal. Nov. 19, 2025).....11

United States v. Wisconsin Elections Commission,
 No. 3:25-cv-1036-JDP (W.D. Wis. Jan. 22, 2026).....11

Vadilal Indus. USA, Inc. v. Singh Trading Co. Inc., No. 25-cv-2028, 2025 WL 2374692
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5 U.S.C. § 552a..... 12

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Md. Code Ann., Elec. Law § 3-101 13

Md. Code Ann., Elec. Law § 3-506 13

Other Authorities

Alexandra Berzon & Nick Corasaniti, *Trump Empowers Election Deniers, Still Fixated
 on 2020 Grievances*, N.Y. TIMES, Oct. 22, 2025 5

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..... 6

Bethany Rodgers, *Testimony: Pennsylvania Election Denial Group Behind Voter
 Registration Cancellation Form Mailings*, GOERIE.COM (Nov. 2, 2024),
[https://www.goerie.com/story/news/politics/elections/state/2024/11/02/pa-voter-
 registration-cancellation-letters-chester-county/75996247007](https://www.goerie.com/story/news/politics/elections/state/2024/11/02/pa-voter-

 registration-cancellation-letters-chester-county/75996247007)..... 7

Brett Sholtis, *‘PA Fair Elections,’ Tied to Powerful Conservative Groups, Pushes to Remove People from Voter Rolls*, WESA (Sept. 28, 2024), <https://perma.cc/8FNC-5KH9>..... 6

Carter Walker, *Efforts to Challenge Pennsylvania Voters’ Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5> 6, 7

Chester County, *Nov. 1, 2024 Election Board Hearing*, <https://chestercopa.portal.civicclerk.com/event/852/media>..... 7

Devlin Barrett & Nick Corasaniti, *Trump Administration Quietly Seeks to Build National Voter Roll*, N.Y. TIMES, Sept. 9, 2025 4

Doug Bock Clark, *She Pushed to Overturn Trump’s Loss in the 2020 Election. Now She’ll Help Oversee U.S. Election Security*, PROPUBLICA, Aug. 26, 2025 5

Emily Bazelon & Rachel Poser, *The Unraveling of the Justice Department*, N.Y. TIMES MAGAZINE, Nov. 16, 2025, 5

Hansi Lo Wang, *Thousands of Pennsylvania Voters Have Had Their Mail Ballot Applications Challenged*, National Public Radio, Nov. 5, 2024..... 6, 7

Jen Fifield, *Pa.’s Heather Honey, Who Questioned the 2020 Election, Is Appointed to Federal Election Post*, PA. CAPITAL-STAR, Aug. 27, 2025..... 5

Jeremy Roebuck & Katie Bernard, *‘I Can’t Think of Anything Less American’: Right-Wing Activists’ Effort to Nullify Hundreds of Pa. Votes Met with Skepticism*, PHILADELPHIA INQUIRER, Nov. 1, 2024..... 6, 7

Jonathan Shorman, *DOJ is Sharing State Voter Roll Lists with Homeland Security*, STATELINE, Sept. 12, 2025,..... 4, 9

Jonathan Shorman, *Trump’s DOJ Wants State to Turn Over Voter Lists, Election Info*, STATELINE, July 16, 2025 9

Jude Joffe-Block & Miles Parks, *The Trump Administration Is Building a National Citizenship Data System*, NPR, June 29, 2025 6

Jude Joffe-Block, *Trump’s SAVE Tool Is Looking for Noncitizen Voters. But It’s Flagging U.S. Citizens Too*, NPR, Dec. 10, 2025, <https://www.npr.org/2025/12/10/nx-s1-5588384/savevoting-data-us-citizens> 8

Kaylie Martinez-Ochoa, Eileen O’Connor, & Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, Brennan Center for Justice (updated Dec. 5, 2025) 3

Kyle Cheney, *Trump Administration Concedes DOGE Team May Have Misused Social Security Data*,
 POLITICO, Jan. 20, 2026, <https://www.politico.com/news/2026/01/20/trump-musk-doge-social-security-00737245> 9

Matt Cohen, *DHS Said to Brief Clela Mitchell’s Group on Citizenship Checks for Voting*,
 DEMOCRACY DOCKET, June 12, 2025 6

Miles Parks & Jude Joffe-Block, *Trump’s DOJ focuses in on voter fraud, with a murky assist from DOGE*,
 NPR, May 22, 2025, <https://www.npr.org/2025/05/17/nx-s1-5383277/trump-doj-doge-noncitizenvoting>..... 8

Press Release, U.S. Dep’t of Justice, *Justice Department Sues Oregon and Maine for Failure to Provide Voter Registration Rolls* (Sept. 16, 2025)..... 4

Press Release, U.S. Department of Justice, *Justice Department Sues Four Additional States and One Locality for Failure to Comply with Federal Elections Laws* (Dec. 12, 2025) 4

Press Release, U.S. Department of Justice, *Justice Department Sues Six Additional States for Failure to Provide Voter Registration Rolls* (Dec. 2, 2025)..... 4

Press Release, U.S. Department of Justice, *Justice Department Sues Six States for Failure to Provide Voter Registration Rolls* (Sept. 25, 2025)..... 4

Press Release, United States Department of Justice,
Justice Department Sues Arizona and Connecticut for Failure to Produce Voter Rolls
 (January 6, 2026), <https://perma.cc/YCM2-QQKM>..... 4

Press Release, United States Department of Justice, *Justice Department Sues Four States for Failure to Produce Voter Rolls* (December 18, 2025), <https://perma.cc/RZL3-4E4B> 4

Press Release, United States Department of Justice,
Justice Department Sues Virginia for Failure to Produce Voter Rolls (January 16, 2026), <https://perma.cc/3L8Q-SJM5> 4

Sarah Lynch, *US Justice Dept Considers Handing over Voter Roll Data for Criminal Probes, Documents Show*, REUTERS, Sept. 9, 2025 5

Rules

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INTRODUCTION

The United States seeks to force Virginia to turn over voters’ sensitive personal information and data. It has been widely reported that the United States will use this data to build an unauthorized national voter database and to target voters for potential challenges and disenfranchisement. These efforts are being driven by self-styled “election-integrity” advocates who have previously used ill-conceived database-matching and database-analysis methods to mass-challenge voters and deny the results of elections, and who now serve in or advise the present Administration.

Proposed Intervenors are Common Cause, a non-partisan, non-profit organization dedicated to grassroots voter engagement and protecting voting rights and civil rights in Virginia, whose own work and whose members’ rights are at risk by the relief sought by the United States in this case, as well as Ms. Ellena, an individual voter whose personal, private data is at risk in this litigation. Proposed Intervenors have an extremely strong interest in preventing the United States’ requests for unfettered and total access to the most sensitive aspects of Virginia’s non-public voter data from being used to harass and potentially disenfranchise voters. Common Cause works to expand access to the ballot and civic engagement, as well as to protect civil liberties, and thus have

an interest in protecting the voting and privacy rights of their members and all Virginia voters. And the interests of Ms. Ellena, as well as the members of Common Cause, are also at stake here. Those members likely include voters who are under particular threat from the United States' requested form of relief, such as voters like Ms. Ellena who are naturalized citizens, voters who have a prior felony conviction, voters who have previously been registered to vote in another state, voters who registered to vote by mail, and voters whose personal information is especially sensitive and who thus have heightened privacy interests.

Proposed Intervenors are entitled to intervene as of right under Rule 24 because this motion is timely, because both their rights and interests are at stake, and because those rights and interests are not adequately represented by the existing Defendant, who unlike Proposed Intervenors, is a state actor, subject to broader public policy and political considerations external to the legal issues presented in this case. Their unique interests in this case, their unique perspective, and their unique motivation to interrogate the purpose of the United States' sweeping request for non-public Virginia voter data will ensure the full development of the record here 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 from Virginia

Beginning in May 2025, Plaintiff the 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 Jan. 23, 2026), <https://perma.cc/R824-QG68> .

On July 15, 2025, DOJ allegedly sent a letter to Defendant Susan Beals, Virginia’s Commissioner of the Department of Elections, demanding, among other things, an electronic copy of Virginia’s computerized statewide voter registration list, including “all fields” contained within the list. Compl. ¶¶ 21-24. That data purportedly includes each Virginia registrant’s name, residential address, birth date, and driver’s license number and/or partial Social Security Number. Compl. p. 10; *see also id.* ¶¶ 14-15. The letter reflects that DOJ expressed an interest in certain categories of persons who purportedly might be included on the voter rolls, including: voters who might have “duplicate” records in the system for some reason (for example, because they changed addresses and registered to vote at their new address); voters who have been convicted of a felony; voters “who have moved out of the commonwealth” and registered in their new state; and non-citizens. Ex. A to Proposed Mot. to Dismiss, Letter from Deputy Assistant Attorney General Michael Gates to the Hon. Susan Beals (July 15, 2025).

On August 14, 2025, DOJ allegedly sent another letter, again requesting the unredacted voter file, and this time purporting to invoke Title III of the Civil Rights Act of 1960. Compl. ¶¶ 25-27. The United States again demanded sensitive Virginia voter data, including “all fields” in the state voter file. Compl. ¶ 25.

The United States alleges that, in the months that followed, it held “extensive discussions” with Commissioner Beals’s representatives, but that the Virginia voter data was never produced to its satisfaction. Compl. ¶ 28.

On January 16, 2026, the United States filed this lawsuit—one of at least twenty-five nearly identical lawsuits that DOJ has initiated against states and election officials across the country—seeking to compel the production of this sensitive Virginia voter data.¹

Notably, according to extensive public reporting, DOJ’s request for private, sensitive voter data from Virginia and other states appears to be in connection with novel efforts by the United States to construct a national voter database, and to otherwise use untested forms of database analysis 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.*; 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> (“Shorman, *DOJ Sharing Lists with Homeland Security*”); Sarah Lynch, *US Justice Dept Considers Handing over Voter Roll Data for Criminal Probes, Documents Show*, REUTERS, Sept.

¹ See Press Release, U.S. Dep’t of Just., *Justice Department Sues Virginia for Failure to Produce Voter Rolls* (Jan. 16, 2026), <https://perma.cc/3L8Q-SJM5>; Press Release, U.S. Dep’t of Just., *Justice Department Sues Arizona and Connecticut for Failure to Produce Voter Rolls* (January 6, 2026), <https://perma.cc/YCM2-QQKM>; 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/RZL3-4E4B>; 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>.

9, 2025, <https://www.reuters.com/legal/government/us-justice-dept-considers-handing-over-voter-roll-data-criminal-probes-documents-2025-09-09>. One 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 MAG. (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. Those advocates include Heather Honey, who sought to overturn the result of the 2020 presidential election in multiple states and now serves as DHS’s “deputy assistant secretary for election integrity.”² Also involved is Cleta Mitchell, a private attorney and leader of a national group called the “Election Integrity Network,” who has, among other things, promoted the use of artificial intelligence to

² 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); Jen Fifield, *Pa.’s Heather Honey, Who Questioned the 2020 Election, Is Appointed to Federal Election Post*, PA. CAP.-STAR, Aug. 27, 2025, <https://penncapital-star.com/election-2025/pa-s-heather-honey-who-questioned-the-2020-election-is-appointed-to-federal-election-post/>; Doug Bock Clark, *She Pushed to Overturn Trump’s Loss in the 2020 Election. Now She’ll Help Oversee U.S. Election Security*, PROPUBLICA, Aug. 26, 2025, <https://www.propublica.org/article/heather-honey-dhs-election-security>.

challenge registered voters.³ 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. *See, e.g., PA Fair Elections v. Pa. Dep't of State*, 337 A.3d 598, 600 n.1 (Pa. Commw. Ct. 2025) (dismissing as meritless complaint brought by “PA Fair Elections,” a group affiliated with current DHS official Honey, challenging Pennsylvania’s voter roll maintenance practices pursuant to HAVA).⁴

For example, in the months before the 2024 election, Honey and an organization affiliated with her, PA Fair Elections, pushed an effort to remove thousands of lawful Pennsylvania voters from the rolls, based on faulty sources of voter data such as “Eagle AI,” a voter database analysis tool supported by Mitchell and her Election Integrity Network.⁵ Then, on the eve of the 2024

³ *See, e.g.,* 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/>; *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.”).

⁴ *See* Carter Walker, *Efforts to Challenge Pennsylvania Voters’ Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5> (describing mass-challenges and noting connection to Honey and her organization “PA Fair Elections”); *see also* Jeremy Roebuck & 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).

⁵ *See* Brett Sholtis, *‘PA Fair Elections,’ Tied to Powerful Conservative Groups, Pushes to Remove People from Voter Rolls*, WESA (Sept. 28, 2024), <https://perma.cc/8FNC-5KH9>; *see also* Kroll & Surgey, *supra*, <https://perma.cc/4MEZ-82SF> (“Mitchell is promoting a tool called EagleAI, which

election, over 4,000 Pennsylvania voters were subjected to mass-challenges lodged by individuals affiliated with PA Fair Elections.⁶ Public reporting and contemporaneous hearing testimony confirmed that PA Fair Elections helped facilitate these challenges, which were based on self-evidently flawed attempts to analyze and match data from the Pennsylvania voter database with external sources.⁷ The baseless voter challenges were eventually all rejected. *See, e.g.,* Carter Walker, *Efforts to Challenge Pennsylvania Voters' Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5>.

According to public reporting, as another part of its efforts to use novel and unspecified forms of data analysis to scrutinize state voter data and target voters for potential disenfranchisement, DOJ last year asked staffers from the new “Department of Governmental Efficiency” (“DOGE”) to identify noncitizens in state voter rolls by matching voter data with data

has claimed to use artificial intelligence to automate and speed up the process of challenging ineligible voters.”).

⁶ *See* Carter Walker, *Efforts to Challenge Pennsylvania Voters' Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5> (describing mass-challenges and noting connection to Honey and her organization “PA Fair Elections”); 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://perma.cc/AMZ5-TFHQ> (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://perma.cc/9993-RZ6E> (same).

⁷ *E.g.,* Bethany Rodgers, *Testimony: Pa. Election Denial Group Behind Voter Registration Cancellation Form Mailings*, GOERIE.COM (Nov. 2, 2024), <https://www.goerie.com/story/news/politics/elections/state/2024/11/02/pa-voter-registration-cancellation-letters-chester-county/75996247007>. A challenger in one county testified about PA Fair Elections' involvement. Chester County, *Nov. 1, 2024 Election Board Hearing* at 50:30-51:34; 58:00-58:47; 1:54:58-1:55:19, <https://chestercopa.portal.civicclerk.com/event/852/media>.

from the Social Security Administration.⁸ DOJ officials have since claimed that “we’ve checked 47.5 million voting records” and found “several thousand non-citizens who are enrolled to vote in Federal elections,” although public reporting indicates that these efforts are producing false positives—*i.e.*, that they are flagging U.S. citizens as being non-citizens who are ineligible to vote.⁹

A recent federal court filing by DOJ further corroborates how United States officials have been seeking to use voter data in conjunction with DOGE-inspired data-matching and aggregation techniques, and have been working with outside “election integrity” advocates seeking to deny election results in those efforts. As detailed in the filing, which was made on behalf of the U.S. Social Security Administration (SSA):

[I]n March 2025, a political advocacy group contacted two members of SSA’s DOGE Team with a request to analyze state voter rolls that the advocacy group had acquired. The advocacy group’s stated aim was to find evidence of voter fraud and to overturn election results in certain States. In connection with these communications, one of the DOGE team members signed a “Voter Data Agreement,” in his capacity as an SSA employee, with the advocacy group. He sent the executed agreement to the advocacy group on March 24, 2025.

Notice of Corrections to the Record at 5, *Am. Fed’n of State, Cnty. & Mun. Emps., AFL-CIO v. Soc. Sec. Admin.*, No. 25-cv-596-ELH, Dkt. No. 197 (D. Md. Jan. 16, 2026); *see also* Kyle Cheney, *Trump Administration Concedes DOGE Team May Have Misused Social Security Data*, POLITICO, Jan. 20, 2026, <https://www.politico.com/news/2026/01/20/trump-musk-doge-social-security->

⁸ *E.g.*, Miles Parks & Jude Joffe-Block, *Trump’s DOJ focuses in on voter fraud, with a murky assist from DOGE*, NPR, May 22, 2025, <https://www.npr.org/2025/05/17/nx-s1-5383277/trump-doj-doge-noncitizenvoting>.

⁹ December 5, 2025 Post by @AAGDhillon <https://x.com/AAGDhillon/status/1997003629442519114>; *see* Jude Joffe-Block, *Trump’s SAVE Tool Is Looking for Noncitizen Voters. But It’s Flagging U.S. Citizens Too*, NPR, Dec. 10, 2025, <https://www.npr.org/2025/12/10/nx-s1-5588384/savevoting-data-us-citizens>.

00737245. The filings, which do not specify the terms of the “Voter Data Agreement” or the activities these DOGE actors or others undertook pursuant to it, also indicated that, around the same period, DOGE actors also shared unknown amounts of social security data on an unapproved third-party server, in a “manner [that] is outside SSA’s security protocols.” Notice of Corrections to the Record, *supra*, at 6.

B. Proposed Intervenors

Proposed Intervenor Common Cause is a nonpartisan organization committed to, *inter alia*, ensuring that all eligible Virginia voters register to vote and exercise their right of suffrage at each election. *See* Ex. A to Mot. to Intervene, Decl. of Suzanne Almeida (“Almeida Decl.”) ¶¶ 3, 6–8. For example, Common Cause has worked to protect voting rights for returning citizens with previous felony convictions in Virginia. *Id.* ¶ 9. Common Cause expends significant resources conducting on-the-ground voter engagement and assistance efforts, including registering qualified individuals to vote, keeping voters informed about key election deadlines and updates and encouraging voters to participate, and assisting voters when they experience problems in trying to vote. Almeida Decl. ¶¶ 10–12. 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. Almeida Decl. ¶¶ 11, 13.

Common Cause has more than 20,000 members in Virginia. Almeida Decl. ¶ 5. Those members include Virginia voters whose personal data will be provided to the federal government if DOJ prevails in this lawsuit, and may include voters who are especially likely to be mistakenly caught up in the DOJ’s efforts to remove voters from voter rolls, including naturalized citizens, voters with previous felony convictions, and voters who have recently changed addresses, among others. *See* Almeida Decl. ¶ 5, 7.

Proposed Intervenor Katherine Ellena is a registered Virginia voter and has lived in the Commonwealth for more than twelve years. *See* Ex. B to Mot. to Intervene, Decl. of Katherine Ellena (“Ellena Decl.”) ¶¶ 2–3. Ms. Ellena has spent most of her career supporting democratic governance and electoral integrity throughout the world. *Id.* ¶ 5. Born in New Zealand, Ms. Ellena moved to the United States after marrying a United States citizen in 2011, and became a naturalized citizen herself in 2015. *Id.* ¶¶ 3–4. Since that time, she has consistently exercised her right to vote in Virginia. *Id.* ¶ 4. Ms. Ellena is deeply concerned about the prospect of having her sensitive, personal information shared with the DOJ. *Id.* ¶ 6. Ms. Ellena believes that voting is a sensitive and private process, and the DOJ’s request for this data does not just harm her own personal privacy and liberties, but those of other Virginia voters. *Id.* ¶ 7.

ARGUMENT

I. MOVANTS ARE ENTITLED TO INTERVENE AS A MATTER OF RIGHT.

Proposed Intervenors are entitled to intervene as of right. Under Rule 24(a)(2), “a court must permit anyone to intervene who, (1) on timely motion, (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, (3) unless existing parties adequately represent that interest.” *Berger v. N.C. State Conf. of the NAACP*, 597 U.S. 179, 190 (2022) (internal quotation marks and alterations omitted); *see also* *Stuart v. Huff*, 706 F.3d 345, 349 (4th Cir. 2013). “[L]iberal intervention is desirable to dispose of as much of a controversy involving as many apparently concerned persons as is compatible with efficiency and due process.” *Feller v. Brock*, 802 F.2d 722, 729 (4th Cir. 1986) (internal citation and quotation marks omitted).

Intervention has been granted to Common Cause and similar intervenor groups in materially identical lawsuits in a number of other states. *See, e.g.*, Order, *United States v. Wis.*

Elections Comm., No. 3:25-cv-1036-JDP, Dkt. No. 53 (W.D. Wis. Jan. 22, 2026); Text Order, *United States v. Hanzas*, No. 2:25-cv-903-MKL, Dkt. No. 42 (D. Vt. Jan. 20, 2026); Text Order, *United States v. Schmidt*, No. 2:25-cv-1481-CB, Dkt. No. 105 (W.D. Pa. Jan. 16, 2026); Text Order, *United States v. Amore*, No. 1:25-cv-639-MSM-PAS (D.R.I. Jan. 6, 2026); Text Order, *United States v. Galvin*, No. 1:25-cv-13816-LTS, Dkt. No. 30 (D. Mass. Jan. 6, 2026); Order, *United States v. Simon*, No. 0:25-cv-3761-KMM-EMB, Dkt. No. 90 (D. Minn. Jan. 6, 2026); Order, *United States v. Nago*, No. 1:25-cv-522-LEK-RT, Dkt. No. 20 (D. Haw. Jan. 5, 2026); Order, *United States v. Scanlan*, No. 1:25-cv-371-AJ, Dkt. No. 23 (D.N.H. Jan. 5, 2026); Order, *United States v. Oliver*, No. 1:25-cv-1193-LF-JFR, Dkt. No. 25 (D.N.M. Dec. 19, 2025); Minute Order, *United States v. Weber*, No. 2:25-cv-9149-DOC-ADS, Dkt. No. 70 (C.D. Cal. Nov. 19, 2025). Here too, because the Proposed Intervenors easily meet Rule 24(a)'s requirements, Court should grant their intervention as a matter of right.

A. The Motion to Intervene Is Timely

With respect to timeliness, courts consider: “how far the underlying suit has progressed”; “the prejudice to existing parties that would result from allowing the intervention”; and “why the movant was tardy in filing its motion.” *Intercept Youth Servs., Inc. v. Key Risk Ins. Co., Inc.*, No. 3:18CV901, 2019 WL 1810988, at *2 (E.D. Va. Apr. 24, 2019) (citing *Alt v. U.S. E.P.A.*, 758 F.3d 588, 591 (4th Cir. 2014)). “Mere passage of time is but one factor to be considered in light of all the circumstances,” and the “most important consideration is whether the delay has prejudiced the other parties.” *Spring Const. Co. v. Harris*, 614 F.2d 374, 377 (4th Cir. 1980).

This motion is indisputably timely. The United States filed this suit on January 16, 2026. *See* Compl. Upon receiving notice of the suit, the Proposed Intervenors promptly prepared this motion. *See Vadilal Indus. USA, Inc. v. Singh Trading Co. Inc.*, No. 25-cv-2028-LKG, 2025 WL

2374692, at *7 (D. Md. Aug. 14, 2025) (holding “there can be no genuine dispute that [intervenor’s] motion to intervene is timely” when motion was filed “less than two weeks” after complaint); *Makhteshim Agan of N. Am., Inc. v. Nat’l Marine Fisheries Serv.*, No. 8:18-cv-0961-PWG, 2018 WL 5846816, at *3 n.3 (D. Md. Nov. 8, 2018) (holding intervention motion was timely when filed “about seven weeks” after complaint). Defendant Beals has not yet filed an answer or a motion to dismiss, meaning that this litigation is at its earliest stages and intervention will not unduly delay or prejudice the existing parties.

B. Proposed Intervenors Have Concrete Interests in the Underlying Litigation

Proposed Intervenors have a “sufficient”—*i.e.*, a “significantly protectable”—interest in the litigation. *E.g.*, *Donaldson v. United States*, 400 U.S. 517, 531 (1971). An intervenor has an interest in the subject matter of the action where the intervenor “stand[s] to gain or lose by the direct legal operation of the district court’s judgment” in the underlying action. *Teague v. Bakker*, 931 F.2d 259, 261 (4th Cir. 1991). Here, Proposed Intervenors have multiple, independently sufficient interests that support intervention as of right.

First, Ms. Ellena and Common Cause’s members who are Virginia voters have a right to privacy in the sensitive voter data the United States seeks. DOJ has demanded that Defendant Beals turn over voters’ full name, date of birth, residential address, and driver’s license number or SSN. *E.g.*, Compl. p. 10 & ¶¶ 14-15, 22-25. This type of sensitive personal information is protected from disclosure by federal law, which prohibits the creation of a national voter database of the type that the United States is reportedly seeking to assemble with the data it seeks. *See, e.g.*, 5 U.S.C. § 552a(e)(7) (provision of the federal Privacy Act 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); *see also, e.g.*, 18 U.S.C. §§ 2721(a), 2725(1), (3), & (4) (Driver’s Privacy Protection Act prohibiting the disclosure of

“personal information” that is obtained by a state Department of Motor Vehicles, which is how many register to vote and provide the information sought to state government).

It is also protected from disclosure by state law. *E.g.*, Va. Code § 24.2-407.1 (prohibiting disclosure of voters’ Social Security numbers or any portion thereof, with certain exceptions not at issue in this case); Va. Code § 24.2-1002.1 (similar). These privacy interests are significant and inure to Ms. Ellena and to each of the organizational Proposed Intervenors’ members who are Virginia voters.

Second, and based on DOJ’s similar data requests to other States, the data DOJ seeks is likely to be used to challenge the voter registration of certain Virginians, potentially including voters with felony convictions; voters who have moved within Virginia or left the state and then returned (but might be deemed “duplicate” voters or “out-of-state” voters due to a shoddy matching system) and voters like Ms. Ellena who are naturalized citizens (who may have indicated they were not a citizen on a government form prior to naturalization. *See supra* p.3. Ms. Ellena and Common Cause members fall within those categories. Almeida Decl. ¶ 5; Ellena Decl. ¶ 4. Ms. Ellena and Common Cause’s members, especially those most likely to be targeted using the information DOJ seeks in this lawsuit, have a concrete interest in not being disenfranchised by so-called “election integrity measures.” *See* Almeida Decl. ¶¶ 4–5, 7, 13–14; Ellena Decl. ¶ 6–7. *See also Ala. Coal. for Immigrant Just. v. Allen*, No. 2:24-cv-1254-AMM, 2024 WL 4510476, at *1 (N.D. Ala. Oct. 16, 2024) (noting that a state purge program ostensibly targeted at noncitizens “included thousands of United States citizens (in addition to far fewer noncitizens . . .)”; *Selcuk v. Pate*, No. 4:24-cv-00390-SHL-HCA, 2024 WL 5054961, at *8–9 (S.D. Iowa Nov. 3, 2024) (noting a state purge program, based on database-matching, which purportedly targeted alleged

noncitizens that flagged 2,176 voters, of whom at least 88% were citizens eligible to vote, many of them naturalized citizens).

Third, Common Cause has protectable interests at stake because its core organizational mission will be harmed if the relief sought is granted. For one, its voter registration activities will be harmed because voters will be chilled from registering and participating if they believe their sensitive personal data will be provided to the federal government (and added into an unauthorized and illegal national database). Almeida Decl. ¶¶ 11, 13; Ellena Decl. ¶ 7. Moreover, these organizations will be further harmed if and when the sensitive voter data sought by the United States is then used to engage in mass challenges of registered voters by “election integrity” activists wielding the power of the federal government. Such mass challenges will force organizational Proposed Intervenors to redirect resources to educating the public about threats to voting rights and mitigating the disenfranchisement of existing voters, and away from their core activities of registering voters and engaging new voters in the democratic process. Almeida Decl. ¶¶ 10–12, 14. Courts routinely find that non-partisan public interest organizations, like the organizational Proposed Intervenors, should be granted intervention in election-related cases, demonstrating the significantly protectable interests such organizations have in safeguarding the electoral process. *See, e.g., Texas v. United States*, 798 F.3d 1108, 1111–12 (D.C. Cir. 2015); *Donald J. Trump for President, Inc. v. Boockvar*, No. 20-cv-2078, 2020 WL 8262029, at *1 (M.D. Pa. Nov. 12, 2020); *Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799–800 (E.D. Mich. 2020); *Kobach v. U.S. Election Assistance Comm’n*, No. 13-cv-04095, 2013 WL 6511874, at *1–2 (D. Kan. Dec. 12, 2013); *LaRoque v. Holder*, 755 F. Supp. 2d 156, 162 n.3 (D.D.C. 2010), *rev’d in part on unrelated grounds*, 650 F.3d 777 (D.C. Cir. 2011). This case is no exception.

C. Disposition of this Case May Threaten the Interests of Proposed Intervenors

The Proposed Intervenors also satisfy the third prong of the intervention analysis because the litigation may result in an order that directly affects their interests. To satisfy Rule 24(a)(2)'s interest impairment prong, intervenors “do not need to establish that their interests *will* be impaired. Rather, they must demonstrate only that the disposition of the action ‘may’ impair or impede their ability to protect their interests.” *Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014) (internal citations omitted). “This burden is minimal.” *Grutter v. Bollinger*, 188 F.3d 394, 399 (6th Cir. 1999) (internal quotation marks and citation omitted).

Here, the threat is significant. The United States proposes to obtain an immediate order compelling the disclosure of private voter data through a “summary” proceeding that bypasses the normal civil litigation process and any discovery into “the basis and the purpose” of their request, 52 U.S.C. § 20703. *See* Compl. ¶¶ 3-4 (describing this as a “special statutory proceeding” where the Attorney General may request “an order directing the officer of election to produce the demanded records, akin to a traditional order to show cause,” and where the “court does not adjudicate the factual foundation for, or the sufficiency of, the Attorney General’s statement of the basis and the purpose contained in the written demand” (internal citations and quotation marks omitted)). This attempt to secure the irrevocable disclosure of private voter data to actors who may misuse it in any number of ways, including by mass-challenging or otherwise attacking Virginians’ right to vote militates strongly in favor of allowing Proposed Intervenors into the case to represent voters’ interests now.

D. Defendant Beals’ Interests Are Different from Those of Proposed Intervenors.

“Under Rule 24(a)(2), once an intervenor has satisfied the three criteria for mandatory intervention, the burden of persuasion shifts such that intervention is mandatory, unless the court

is persuaded that the representation is in fact adequate.” *Friends of the Cap. Crescent Trail v. U.S. Army Corps of Eng’rs*, No. 19-cv-106, 2019 WL 3238749, at *2 (D. Md. July 18, 2019) (cleaned up). “[T]he burden on the applicant of demonstrating a lack of adequate representation ‘should be treated as minimal.’” *Teague*, 931 F.2d at 262 (quoting *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)); *see also Berger*, 597 U.S. at 195 (noting that “[the Supreme] Court has described the Rule’s test as presenting proposed intervenors with only a minimal challenge.”). Proposed Intervenor need not show that representation of their interests *will* be inadequate, but rather only that “representation [of their interests] ‘may be’ inadequate.” *Trbovich*, 404 U.S. at 538 n.10 (internal citation omitted).

Proposed Intervenor meet this minimal burden here. As a government official, Defendant Beals has a generalized interest in carrying out her office’s legal obligations under federal and state laws, 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 Intervenor will “add [a] missing element” to this litigation, making the existing representation inadequate: the perspective of not only civil rights groups whose sole commitment is to ensuring access to the ballot but also the perspective of individual voters whose very own private information is at risk. *T-Mobile Ne. LLC v. Town of Barnstable*, 969 F.3d 33, 40 (1st Cir. 2020).

In addition, there may be arguments and issues that the Defendant may not be able or willing to raise that are critical to Proposed Intervenor. 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 political considerations external to the legal issues presented by a case like this can motivate elections officials to pursue a settlement that would jeopardize the private information of Ms. Ellena and/or Common Cause members. *See Judicial Watch, Inc. v. Ill. State Bd. of Elections*, No. 24-C-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*, 597 U.S. at 198 (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” and similar stakeholders); *Kobach*, 2013 WL 6511874, at *4 (finding that applicants who had interests in protecting voter rights, particularly in minority and underprivileged communities, may have private interests that diverge from the public interest of an elections agency).

While Proposed Intervenors’ motion rises or falls on its own merit, they also bring a different set of perspectives and interests than the other proposed intervenors in this case. Proposed

Intervenors here include an individual Virginia voter—Ms. Ellena—whose personal information is at risk, and whose unique experiences and interests, including as a naturalized citizen, are not reflected by the other proposed intervenors, *see* Ellena Decl. ¶¶ 2-4, 8.

Proposed Intervenors’ unique interests will help ensure that all issues relevant to the adjudication of this case are explored. For example, the United States requests the data at issue pursuant to purported public disclosure provisions in the Civil Rights Act of 1960, but any requests pursuant to those provisions must come with “a statement of the basis and the purpose therefor.” 52 U.S.C. § 20703. The motivations and purposes for DOJ’s requests, including whether they will be used to create an unauthorized national database as has been reported, and whether they are a prelude to mass challenges based on faulty data-matching techniques, are highly relevant and potentially dispositive here. Proposed Intervenor Common Cause’s unique interest as a good-government, pro-democracy organization in pursuing this highly relevant line of factual inquiry and argument is further strong grounds to support intervention.

II. IN THE ALTERNATIVE, THE COURT SHOULD GRANT PERMISSIVE INTERVENTION

If the Court declines to grant intervention as of right, it should grant permissive intervention under Federal Rule of Civil Procedure 24(b). Rule 24(b) “provides that a district court ‘may permit’ intervention if the applicant has ‘a claim or defense that shares with the main action a common question of law or fact.’” *Stuart*, 706 F.3d at 355 (quoting Fed. R. Civ. P. 24(b)(1)(B)). “Rule 24(b) notes that in ‘exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.’” *In re Sierra Club*, 945 F.2d 776, 779 (4th Cir. 1991) (quoting Fed. R. Civ. P. 24(b)(3)). Other factors that courts often evaluate include “the nature and extent of the intervenors’ interest, their standing to raise relevant legal issues,” and “whether parties seeking intervention will significantly contribute to full

development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented.” *Brown Inv. Advisory & Tr. Co. v. Allen*, No. 19-cv-2332, 2020 WL 5798365, at *3 (D. Md. Sept. 29, 2020) (internal citation omitted); *Booker, Jr. v. Dominion Va. Power*, No. 3:09CV759, 2010 WL 1286698, at *3 (E.D. Va. Mar. 26, 2010) (courts should consider whether proposed intervenors are “likely to contribute significantly to the development of the underlying factual issues” (internal citations omitted)).

Permissive intervention is appropriate here. As discussed above, this motion is timely, coming shortly after the case began and prior to any discovery or motion practice. *See Vadilal Indus. USA, Inc.*, 2025 WL 2374692, at * 7; *Makhteshim Agan of N. Am., Inc.*, 2018 WL 5846816, at *3 n.3. Because Proposed Intervenors seek to join the case at the beginning, their involvement runs no risk of delaying proceedings. *See Friends of the Cap. Crescent Trail*, 2019 WL 3238749, at *3 (noting motion to intervene was appropriate a month after defendant filed its answer to the complaint “and before any dispositive motions had been filed or discovery completed.”).

Moreover, Proposed Intervenors’ defense goes directly to the issues already presented in this lawsuit, such as (1) whether federal law permits the United States to force Virginia to give it the personal information it seeks; (2) whether legal protections for individual privacy prohibit the disclosure of that information; and (3) whether the United States’ motivations and its potential uses for the data sought are permissible. Proposed Intervenors’ distinct perspective on the legal and factual issues before the Court will thus 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. Proposed Intervenors “do not propose to add new issues to the litigation”; instead, they are trying to offer their unique perspective to resolve the existing ones. *City of Greensboro v. Guilford Cnty. Bd. of Elections*, No. 1:15-cv-559, 2015 WL 12752936, at *1 (M.D.N.C. Oct. 30, 2015). As noted

above, Proposed Intervenors provide the unique perspective of specific Virginia voters, as well as vulnerable voters specifically named in the DOJ's requests, such as naturalized citizens. *See supra* Section I.D.

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., Thomas v. Andino*, 335 F.R.D. 364, 371 (D.S.C. 2020) (granting permissive intervention to state political party in challenge related to election laws); *Tirrell v. Edelblut*, No. 24-cv-251-LM-TSM, 2025 WL 1939965, at *3 (D.N.H. July 15, 2025) (allowing “a membership-based organization that represents cisgender athletes” to intervene as a defendant in a suit challenging state restrictions on transgender athletes); *Judicial Watch, Inc. v. Pennsylvania*, No. 20-cv-708 (M.D. Pa. Nov. 19, 2020), Dkt. No. 50 at 3 (granting permissive intervention in NVRA case to Common Cause and League of Women Voters of Pennsylvania upon finding that “the presence of the intervenors may serve to clarify issues and thereby serve judicial economy” (internal quotation marks, citation, and footnote omitted)); *Donald J. Trump for President, Inc.*, 2020 WL 8262029, at *1 (granting Rule 24(b) motion where voters and organizations “have an interest in the constitutionality of Pennsylvania’s voting procedures, which goes to the heart of Plaintiffs’ action” (internal quotation marks and citation omitted)). This Court should do the same here.

CONCLUSION

For the reasons stated above, the Court should grant the Motion to Intervene as Defendants as of right, or in the alternative, via permissive intervention.

Dated: January 30, 2026

Respectfully submitted,

/s/ Davin Rosborough

Ari J. Savitzky*
Davin Rosborough (Va. Bar No. 85935)
Sophia Lin Lakin*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
Tel.: (212) 549-2500
Facsimile: (212) 549-2539
asavitzky@aclu.org
drosborough@aclu.org
slakin@aclu.org

Patricia J. Yan*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15th Street NW
Washington, DC 20005
Tel.: (202) 457-0800
pyan@aclu.org

Counsel for Common Cause and Katherine Ellena

** application for admission pro hac vice
forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on January 30, a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record who have appeared and by email on counsel for the United States.

/s/ Davin Rosborough

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSAN BEALS, in her Official Capacity as
Commissioner of the Virginia Department of
Elections,

Defendant.

No. 3:26-cv-00042
(Hon. Roderick C. Young)

**MOTION OF COMMON CAUSE AND KATHERINE ELLENA
TO DISMISS THE COMPLAINT**

Common Cause and Katherine Ellena (collectively, “Intervenors”) move to dismiss the Complaint pursuant to Rule 12 of the Federal Rules of Civil Procedure for failure to state a claim for which relief may be granted. A memorandum setting forth the facts and legal argument necessary to support their motion, with exhibits attached, is being filed concurrently herewith. *See* L.R. 7(F)(1).

The requests propounded by the U.S. Department of Justice (“DOJ”) on the State of Virginia, as set forth in the Complaint, do not satisfy the core statutory requirement that any federal demand for information under the Civil Rights Act of 1960 include a disclosure of “the basis and the purpose” for the federal data request. 52 U.S.C. § 20703. Because the United States failed to disclose the basis and the purpose of its request for millions of Virginians’ sensitive personal data,

and because the United States's request for this data without any redaction or protections for voters' privacy is unlawful, the United States has failed to state a claim. This Court should dismiss this action.

CONCLUSION

The Court should dismiss the Complaint.

Dated: January 30, 2026

Respectfully submitted,

/s/ Davin Rosborough

Ari J. Savitzky*

Davin Rosborough (Va. Bar No. 85935)

Sophia Lin Lakin*

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

125 Broad Street, 18th Floor

New York, NY 10004

Tel.: (212) 549-2500

Facsimile: (212) 549-2539

asavitzky@aclu.org

drosborough@aclu.org

slakin@aclu.org

Patricia J. Yan*

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

915 15th Street NW

Washington, DC 20005

Tel.: (202) 457-0800

pyan@aclu.org

Counsel for Common Cause and Katherine Ellena

** application for admission pro hac vice forthcoming*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSAN BEALS, in her Official Capacity as
Commissioner of the Virginia Department of
Elections,

Defendant.

No. 3:26-cv-00042
(Hon. Roderick C. Young)

**MEMORANDUM OF LAW IN SUPPORT OF INTERVENOR-DEFENDANTS
COMMON CAUSE AND KATHERINE ELLENA'S MOTION TO DISMISS**

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TABLE OF AUTHORITIES

Cases

Alabama v. United States,
304 F.2d 583 (5th Cir. 1962) 3

Alabama v. United States,
371 U.S. 37 (1962) 4

Ashcroft v. Iqbal,
556 U.S. 662 (2009) 15

Becker v. United States,
451 U.S. 1306 (1981) 6

Burdick v. Takushi,
504 U.S. 428 (1992) 1

Coleman v. Kennedy,
313 F.2d 867 (5th Cir. 1963) 18

Corner Post, Inc. v. Board of Governors of the Federal Reserve System,
603 U.S. 799 (2024) 22

Dinkens v. Attorney General of United States,
285 F.2d 430 (5th Cir. 1961) 3

Equity Inv. Assocs., LLC v. United States,
40 F.4th 156 (4th Cir. 2022) 18

F.D.I.C. v. Wentz,
55 F.3d 905 (3d Cir. 1995) 18

In re Coleman,
208 F. Supp. 199 (S.D. Miss. 1962) 17, 28

Just Puppies, Inc. v. Brown,
123 F.4th 652 (4th Cir. 2024) 16

Kennedy v. Lynd,
306 F.2d 222 (5th Cir. 1962) 17, 18, 19, 28

Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.,
591 F.3d 250 (4th Cir. 2009) 16

Niz-Chavez v. Garland,
593 U.S. 155 (2021) 22

PA Fair Elections v. Pennsylvania Department of State,
337 A.3d 598 (Pa. Commw. Ct. 2025) 10

Project Vote/Voting for America, Inc. v. Long,
682 F.3d 331 (4th Cir. 2012) 25, 27

Public Interest Legal Foundation v. Benson,
136 F.4th 613 (6th Cir. 2025) 21

Public Interest Legal Foundation v. Boockvar,
431 F. Supp. 3d 553 (M.D. Pa. 2019)..... 26

Public Interest Legal Foundation, Inc. v. Dahlstrom,
673 F. Supp. 3d 1004 (D. Alaska 2023) 26

Public Interest Legal Foundation, Inc. v. Matthews,
589 F. Supp. 3d 932 (C.D. Ill. 2022)..... 26

Public Interest Legal Foundation, Inc. v. Matthews,
No. 20-CV-3190, 2022 WL 1174099 (C.D. Ill. Apr. 20, 2022)..... 26

Republican Nat’l Comm. v. N.C. State Bd. of Elections,
120 F.4th 390 (4th Cir. 2024)..... 1

Sheetz v. Cnty. of El Dorado,
601 U.S. 267 (2024) 27

State of Ala. ex rel. Gallion v. Rogers,
187 F. Supp. 848 (M.D. Ala. 1960) 2, 3

United States v. Cartwright,
230 F. Supp 873 (M.D. Ala. 1964) 4

United States v. Powell,
379 U.S. 48 (1964) 18

United States v. Rosinsky,
547 F.2d 249 (4th Cir. 1977) 18

United States v. Simms,
914 F.3d 229 (4th Cir. 2019) 26

Yick Wo v. Hopkins,
118 U.S. 356 (1886) 1

Statutes

18 U.S.C. § 2721..... 5

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42 U.S.C. § 1971..... 5

44 U.S.C. § 3351..... 5

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52 U.S.C. § 10101..... 5

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 52 U.S.C. § 20701..... 2, 3, 17
 52 U.S.C. § 20705..... 6
 52 U.S.C. § 20901..... 2
 52 U.S.C. § 21083..... 14, 21
 52 U.S.C. § 21085..... 21, 23
 E-Government Act of 2002,
 Pub. L. No. 107-347, 116 Stat. 2899 (2002) 5
 Privacy Act of 1974,
 Pub. L. No. 93-579, 88 Stat. 1896 (1974) 5

Other Authorities

Alex Littlehales & Tracy Cooper, *DOJ Seeks Virginia Voter Data Amid Federal Compliance Review*, 13 NEWS NOW (Sept. 9, 2025), <https://www.13newsnow.com/article/news/local/virginia/virginia-doj-voter-data-demand-privacy-concerns/291-d4aa5f8a-9797-461b-a45f-2110d6a88efa> 8
 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> 10
 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://perma.cc/5W2N-SS2Q>..... 10
 Bethany Rogers, *Testimony: Pa. Election Denial Group Behind Voter Registration Cancellation Form Mailings*, GOERIE.COM (Nov. 2, 2024), <https://www.goerie.com/story/news/politics/elections/state/2024/11/02/pa-voter-registration-cancellation-letters-chester-county/75996247007> 11
 Brett Sholtis, *'PA Fair Elections,' Tied to Powerful Conservative Groups, Pushes to Remove People from Voter Rolls*, WESA (Sept. 28, 2024), <https://www.wesa.fm/politics-government/2024-09-28/pa-fair-elections-conservative-pennsylvania-voter-role-purges> 11
 Brett Sholtis, *Pa. Election Integrity Group Met with 2 Architects of 2020 Effort to Overturn Election*, LANCASTERONLINE (July 21, 2024), https://lancasteronline.com/news/politics/pa-election-integrity-groupmet-with-2-architects-of-2020-effort-to-overturnelection/article_d477633c-460f-11ef-9d56-2fd754d57cab.html 11
 Carter Walker, *Efforts to Challenge Pennsylvania Voters' Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5> 11, 12
 Carter Walker, *This Pa. Activist Is the Source of False and Flawed Election Claims Gaining Traction Across the Country*, VOTEBEAT (Feb. 12, 2025),

<https://www.votebeat.org/pennsylvania/2024/02/12/heather-honey-pennsylvania-election-integrity-eric/> 11

Chester County, *Nov. 1, 2024 Election Board overview Hearing*,
<https://chestercopa.portal.civicclerk.com/event/852/> 12

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>. 9

Doug Bock Clark, *She Pushed to Overturn Trump’s Loss in the 2020 Election. Now She’ll Help Oversee U.S. Election Security*,
 PROPUBLICA, Aug. 26, 2025, <https://perma.cc/CE7A-6RY6> 10

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> 10

Eric H. Holder, Jr., *MLK50 Symposium: Where Do We Go from Here? Keynote Address*,
 49 U. Mem. L. Rev. 33 (2018) 4

H.R. Rep. No. 86-956 (1959)..... 2, 3, 4

Hansi Lo Wang, *Thousands of Pennsylvania Voters Have Had Their Mail Ballot Applications Challenged*,
 NPR, Nov. 5, 2024, <https://perma.cc/9993-RZ6E> 11

Jen Fifield, *Pa.’s Heather Honey, Who Questioned the 2020 Election, Is Appointed to Federal Election Post*, PA. CAPITAL-STAR, Aug. 27, 2025,
<https://penncapital-star.com/election-2025/pa-s-heather-honey-who-questioned-the-2020-election-is-appointed-to-federal-election-post> 10

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://perma.cc/AMZ5-TFHQ> 11

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> ... 9

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/> 14

Jude Joffe-Block & Miles Parks, *The Trump Administration Is Building a National Citizenship Data System*,
 NPR, June 29, 2025, <https://perma.cc/J8VZ-X4N4> 10

Matt Cohen, *DHS Said to Brief Clela Mitchell’s Group on Citizenship Checks for Voting*,
 DEMOCRACY DOCKET,
 June 12, 2025,
<https://www.democracymatt.com/news-alerts/dhs-said-to-brief-cleta-mitchells-anti-voting-group-on-checking-citizenship-for-voters>..... 10

Press Release, United States Department of Justice,
Justice Department Sues Arizona and Connecticut for Failure to Produce Voter Rolls (January 6, 2026), <https://perma.cc/YCM2-QQKM> 8

Press Release, United States Department of Justice,
Justice Department Sues Four Additional States and One Locality for Failure to Comply with Federal Elections Laws (Dec. 12, 2025), <https://perma.cc/8V9V-SRPJ>..... 8

Press Release, United States Department of Justice,
Justice Department Sues Four States for Failure to Produce Voter Rolls (Dec. 18, 2025),
<https://perma.cc/RZL3-4E4B> 8

Press Release, United States Department of Justice,
Justice Department Sues Oregon and Maine for Failure to Provide Voter Registration Rolls
 (Sept. 16, 2025), <https://perma.cc/M69P-YCVC> 9

Press Release, United States Department of Justice,
Justice Department Sues Six Additional States for Failure to Provide Voter Registration Rolls
 (Dec. 2, 2025), <https://perma.cc/F5MD-NWHD>..... 8

Press Release, United States Department of Justice,
Justice Department Sues Six States for Failure to Provide Voter Registration Rolls (Sept. 25,
 2025), <https://perma.cc/7J99-WGBA>..... 9

Press Release, United States Department of Justice, *United States Announces Settlement with Kentucky Ensuring Compliance with Voter Registration List Maintenance Requirements*
 (July 5, 2018)
<https://perma.cc/G2EZUUA5>..... 22

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> 9

Steven F. Lawson,
Black Ballots: Voting Rights in the South, 1944-1969 (1976)..... 4

U.S. Dep’t of Just., Civ. Rts. Div.,
Federal Law Constraints on Post-Election “Audits” (Jul. 28, 2021),
<https://perma.cc/74CP-58EH>..... 2

Rules

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Federal Rules of Civil Procedure, Rule 81 6

Intervenor-Defendants Common Cause, and Katherine Ellena hereby move to dismiss the United States' Complaint for failure to state a claim pursuant to Rule 12 of the Federal Rules of Civil Procedure and set forth below the relevant facts and points of law in support of their motion. *See* L.R. 7(F)(1).

INTRODUCTION

In this action, 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. But the information requests propounded by the U.S. Department of Justice (“DOJ”) on the State of Virginia, as set forth in the Complaint, do not satisfy the core statutory requirement that any federal demand for information under the Civil Rights Act of 1960 include a disclosure of “the basis and the purpose” for the federal data request. 52 U.S.C. § 20703. Because the United States failed to properly disclose the basis and purpose of its request for the data, and because its request is unlawful, it has failed to state a claim. Indeed, a district court in California reached those same conclusions just two weeks ago with respect to a materially identical complaint, dismissing the United States’s claims without leave to replead. *See United States v. Weber*, No. 2:25-CV-09149-DOC-ADS, 2026 WL 118807 (C.D. Cal. Jan. 15, 2026); *see also* Minutes of Proceedings, *United States v. Oregon*, No. 6:25-cv-01666-MTK (D. Or. Jan. 26, 2026), Dkt. No. 68 (also granting dismissal of the United States’s claims with written opinion to follow). This Court should do the same.

The right to vote “is of the most fundamental significance under our constitutional structure.” *Republican Nat’l Comm. v. N.C. State Bd. of Elections*, 120 F.4th 390, 404 (4th Cir. 2024) (quoting *Burdick v. Takushi*, 504 U.S. 428, 433 (1992)). It is “preservative of all [other] rights” because it serves as a check against tyrannical rule while simultaneously ensuring the competition of ideas amongst our elected officials. *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

Congress has repeatedly legislated to protect the franchise, including through Title III of the Civil Rights Act of 1960 (“CRA”), 52 U.S.C. § 20701 *et seq.*, as well as the National Voter Registration Act (“NVRA”), 52 U.S.C. § 20501 *et seq.*, and the Help America Vote Act (“HAVA”), 52 U.S.C. § 20901 *et seq.* These statutes were enacted for the purpose of ensuring that all eligible Americans—especially racial minorities and voters with disabilities—have the opportunity to participate in free, fair, and secure elections. As the United States Department of Justice itself explains, Title III of the CRA, the election records provision invoked in the Complaint 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 *State of Ala. ex rel. Gallion v. Rogers*, 187 F. Supp. 848, 853 (M.D. Ala. 1960) and H.R. Rep. No. 86-956 (1959)).

The United States’ demand for Virginia’s unredacted voter file—which contains sensitive personal information such as full birth dates, driver’s license numbers, and Social Security numbers from every voter in the state—undermines these statutes’ core purposes and is contrary to law. Although the public disclosure of carefully redacted state voting records can help ensure transparency and the accuracy of the voter rolls, demanding the production of unredacted voter records, thereby revealing protected personal identifying information such as driver’s license numbers and Social Security numbers, would only deter voter participation and undermine the right to vote. Especially so here, where the United States’ *actual* reason for the data demand, which it never disclosed in its request but has been widely reported, is to create an unauthorized and unlawful national voter database, and to use this illicit tool to illegally target and challenge voters.

For good reason, there is no statutory right to demand the type of sensitive voter information at issue here without fully and accurately setting forth “the basis and the purpose” for

the data request. 52 U.S.C. § 20703. Because the Complaint fails to establish United States’ entitlement to a complete, unredacted, non-public Virginia voter file—much less its entitlement to obtain this sensitive data at the very beginning of the case, without any discovery process or any of the other protections and procedures required by the Federal Rules—this Court should dismiss this action.

BACKGROUND

I. STATUTORY BACKGROUND: THE CIVIL RIGHTS ACT OF 1960

Amidst the turmoil of the Jim Crow era, Congress enacted the Civil Rights Act of 1960, 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”). Title III requires states to retain and preserve “all records and papers which come into [an election official’s] possession relating to any application, registration, payment of poll tax, or other act requisite to voting.” 52 U.S.C. § 20701. These records “shall, upon demand in writing by the Attorney General or his representative . . . be made available for inspection, reproduction, and copying at the principal office of [the] custodian.” *Id.* § 20703.

Title III, as part of the 1960 Civil Rights Act, provided a mechanism by which “preliminary investigations of registration practices [could] be made in order to determine whether or not such practices conform[ed] to constitutional principles.” *State of Ala. ex rel. Gallion v. Rogers*, 187 F. Supp. 848, 853 (M.D. Ala. 1960), *aff’d sub nom. Dinkens v. Att’y Gen. of U.S.*, 285 F.2d 430 (5th Cir. 1961). After Congress enacted Title III, the federal government used it to investigate jurisdictions that had effectively denied Black Americans the right to register to vote. *See, e.g., Alabama v. United States*, 304 F.2d 583, 585–86 (5th Cir. 1962), *aff’d sub nom. Alabama v. United*

States, 371 U.S. 37 (1962) (finding an Alabama county’s registration practices were racially discriminatory, leading to less than 10% of Black citizens being registered to vote while nearly 100% of white citizens were registered, despite the county’s population being 83% Black); *see also United States v. Cartwright*, 230 F. Supp 873, 875 (M.D. Ala. 1964) (reviewing data from an investigation pursuant to Title III which revealed that voting registrars engaged in racially discriminatory practices resulting in 89% of white citizens being registered to vote but only 7.5% of Black citizens being registered).

But this robust use of Title III was short lived. Only a few years later, Congress passed the Civil Rights Act of 1964, which outlawed racial segregation altogether. Then, in 1965, Congress passed the Voting Rights Act, the “crown jewel of the civil rights movement,”¹ which established new voter protections, eliminated literacy tests, and led to the enfranchisement of millions of Black citizens. Because Congress enacted more effective voting rights laws—most notably the Voting Rights Act—federal court assessment of Title III has largely been silent since 1965.

Title III does not provide for any sort of truncated “special statutory proceeding” that displaces the ordinary operation of the Federal Rules of Civil Procedure. *See* Compl. ¶¶ 1-4 (citing, primarily, *Kennedy v. Lynd*, 306 F.2d 222 (5th Cir. 1962)).

In the early 1960s, particularly in the Fifth Circuit states of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas, election officials notoriously refused to register Black voters, and civil rights enforcement efforts confronted strong resistance from local officials and local courts.² Title III proved crucial for uncovering evidence showing why Black voter registration

¹ Eric H. Holder, Jr., *MLK50 Symposium: Where Do We Go from Here? Keynote Address*, 49 U. Mem. L. Rev. 33, 38 (2018).

² *See generally, e.g.*, Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944-1969* (1976).

was extraordinarily low and allowed the federal government to bring ““pattern or practice”” voter discrimination cases. *Lynd*, 306 F.2d at 228 (citing 42 U.S.C. § 1971 (since transferred to 52 U.S.C. § 10101)). Consistent with Title III’s purpose, the 1960s Fifth Circuit required counties to produce documents that were sought for that purpose when a proper statement of basis and purpose were given. *Id.* (Title III’s “purpose is to enable the Attorney General to determine whether [§ 10101] suits or similar actions should be instituted. And it is to enable him to obtain evidence for use in such cases if and when filed.”). It rejected the argument, made by the Jim Crow states, that the Attorney General needed to prove discrimination before it was entitled to inspect a county’s election records where massive racial disparities with respect to registration and voting were clear. *See id.* In that context, “the factual foundation for” the basis and purpose of the Attorney General’s requests was held to be utterly self-evident—Jim Crow regimes were using every possible means to block Black Americans from registering to vote, including resistance to federal court orders—and thus plenary “judicial review or ascertainment” of further facts was not warranted. *Id.* at 226.³

Notably, the 1960s Fifth Circuit cases were decided before sensitive personal identifying information such as Social Security Numbers or driver’s license numbers was 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.⁴ And even in that context, the 1960s Fifth Circuit cases carefully noted that “we are not discussing confidential, private papers and effects. We are, rather

³ *See also In re Coleman*, 208 F. Supp. 199, 201 (S.D. Miss. 1962), *aff’d sub nom. Coleman v. Kennedy*, 313 F.2d 867 (5th Cir. 1963) (acknowledging in the context of Title III of the CRA that while “[t]he right of free examination of official records is the rule,” there could be “exception[s]” where “the purpose is speculative, or from idle curiosity”).

⁴ *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).

dealing with public records which ought ordinarily to be open to legitimate reasonable inspection.”
Lynd, 306 F.2d at 231.

In any case, nothing in the text of Title III of the CRA, which provides for judicial enforcement of records requests under the statute “by appropriate process,” 52 U.S.C. § 20705, purports to override the Federal Rules of Civil Procedure. *See* 52 U.S.C. § 20703. To the contrary, the Federal Rules “govern the procedure in *all* civil actions and proceedings in the United States district courts,” Fed. R. Civ. P. 1 (emphasis added), with only a narrow set of express exceptions of which the CRA is not one, Fed. R. Civ. P. 81.

Indeed, in the more than sixty years since *Kennedy v. Lynd*, the Supreme Court has repeatedly 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) (internal citation and quotation marks omitted); *see also*, *e.g.*, *United States v. Powell*, 379 U.S. 48, 57–58 (1964) (holding that IRS Commissioner bears the burden to establish statutory requirements before enforcement of a tax subpoena pursuant to statute directly analogous to Title III).⁵

⁵ *Powell* involved an attempt to enforce a statute providing the United States with the power to request certain books and records relating to taxes and to compel their production “by appropriate process”—terms that are materially identical to the relevant provisions of Title III. 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[.]” (emphasis added)), *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.” (emphasis added)). And the Supreme Court squarely held that the tax

II. FACTUAL BACKGROUND

A. The United States Seeks to Force the Disclosure of Voters' Sensitive Voter Data

Beginning in May 2025, Plaintiff the United States, through 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 Jan. 23, 2026), <https://perma.cc/R824-QG68>.

On July 15, 2025, DOJ allegedly sent a letter to Defendant Susan Beals, Virginia's Commissioner of the Department of Elections, demanding, among other things, an electronic copy of Virginia's computerized statewide voter registration list, including "all fields" contained within the list. Compl. ¶¶ 21-24. That data purportedly may include each Virginia registrant's name, residential address, birth date, and driver's license number and/or partial Social Security Number. Compl. p. 10; *see also id.* ¶¶ 14-15. The letter reflects that DOJ expressed an interest in certain categories of persons who purportedly might be included on the voter rolls, including: voters who might have "duplicate" records in the system for some reason (for example, because they changed addresses and registered to vote at their new address); voters who have been convicted of a felony; voters "who have moved out of the commonwealth" and registered in their new state; and non-citizens. Ex. A, Letter of Deputy Assistant Attorney General Michael Gates to the Hon. Susan Beals (July 15, 2025) ("July 15 Letter").

On August 14, 2025, DOJ allegedly sent another letter, again requesting the unredacted voter file, and this time purporting to invoke Title III of the Civil Rights Act of 1960. Compl.

records statute being enforced in *Powell* did *not* authorize any special or summary proceeding that might supplant the Federal Rules. 379 U.S. at 57–58 & n.18.

¶¶ 25-27. The United States again demanded sensitive Virginia voter data, specifying that “all fields” in the voter file should be produced. Compl. ¶ 25. According to public reporting, the August 14 Letter was sent by Assistant Attorney General Harmeet Dhillon. Alex Littlehales & Tracy Cooper, *DOJ Seeks Virginia Voter Data Amid Federal Compliance Review*, 13 NEWS NOW (Sept. 9, 2025), <https://www.13newsnow.com/article/news/local/virginia/virginia-doj-voter-data-demand-privacy-concerns/291-d4aa5f8a-9797-461b-a45f-2110d6a88efa>. While the United States did not append the August 14 Letter to the Complaint, Dhillon sent at least six other materially identical letters to the top state elections officials of Arizona, Georgia, Illinois, Nevada, Massachusetts, and Pennsylvania purporting to demand the unredacted state voter file and to invoke the CRA. *See* Ex. B, Compilation of August 14 Letters of Assistant Attorney General Harmeet Dhillon to the State Election Officials Invoking CRA (“Compilation of August 14 Letters”).

DOJ alleges in its Complaint that the August 14 Letter “explained that the basis of the [] request was that the CRA requires the SVRL to be made available to the Attorney General upon her demand.” Compl. ¶ 26. That is not consistent with the text of the other August 14 Letters, all of which use the same exact language to invoke the CRA and none of which sets forth the “basis” of DOJ’s request. *See* Compilation of August 14 Letters at 2, 5, 8, 11, 14, 17. Consistent with the other August 14 letters from Dhillon to state election officials, the August 14 Letter “stated that the purpose of the request was to ‘ascertain Virginia’s compliance with the list maintenance requirements of the NVRA and HAVA.’” Compl. ¶ 27; *accord* Compilation of August 14 Letters at 2, 5, 8, 11, 14, 17.

The United States alleges that, in the months that followed those letters, it held “extensive discussions” with Commissioner Beals’s representatives, but that the Virginia voter data was never

produced to its satisfaction. Compl. ¶ 28. On January 16, 2026, the United States filed this lawsuit—one of at least twenty-five nearly identical lawsuits that DOJ has initiated against states and election officials across the country—seeking to compel the production of this sensitive Virginia voter data.⁶

B. The United States Seeks to Unlawfully Construct National Voter Database with the Data

According to extensive public reporting, DOJ's requests for private, sensitive voter data from Virginia and other states appear to be in connection with novel efforts by the United States to construct a national voter database, and to otherwise use untested forms of database matching 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”),

⁶ See Press Release, U.S. Dep't of Just., *Justice Department Sues Virginia for Failure to Produce Voter Rolls* (Jan. 16, 2026), <https://perma.cc/3L8Q-SJM5>; 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/YCM2-QQKM>; 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/RZL3-4E4B>; 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/8V9V-SRPJ>; 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>.

according to reported statements from DOJ and DHS. *Id.*⁷ One 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 MAG., 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. Those advocates include Heather Honey, who sought to overturn the result of the 2020 presidential election in multiple states and now serves as DHS’s “deputy assistant secretary for election integrity.”⁸ Also

⁷ 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>.

⁸ 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); Jen Fifield, *Pa.’s Heather Honey, Who Questioned the 2020 Election, Is Appointed to Federal Election Post*, PA. CAP.-STAR, Aug. 27, 2025, <https://penncapital-star.com/election-2025/pa-s-heather-honey-who-questioned-the-2020-election-is-appointed-to-federal-election-post>; Doug Bock Clark, *She Pushed to Overturn Trump’s*

involved is Cleta Mitchell, a private attorney and leader of a national group called the “Election Integrity Network,” who has, among other things, promoted the use of artificial intelligence to challenge registered voters.⁹ 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. *See, e.g., PA Fair Elections v. Pa. Dep’t of State*, 337 A.3d 598, 600 n.1 (Pa. Commw. Ct. 2025) (dismissing as meritless complaint brought by “PA Fair Elections,” a group affiliated with current DHS official Honey, challenging Pennsylvania’s voter roll maintenance practices pursuant to HAVA).¹⁰

For example, in the months before the 2024 election, Honey and an organization affiliated with her, PA Fair Elections, pushed an effort to remove thousands of lawful Pennsylvania voters from the rolls, based on faulty sources of voter data such as “Eagle AI,” a voter database analysis tool supported by Mitchell and her Election Integrity Network.¹¹ Then, on the eve of the 2024

Loss in the 2020 Election. Now She’ll Help Oversee U.S. Election Security, PROPUBLICA, Aug. 26, 2025, <https://perma.cc/CE7A-6RY6>.

⁹ *See, e.g.,* Matt Cohen, *DHS Said to Brief Cleta Mitchell’s Group on Citizenship Checks for Voting*, DEMOCRACY DOCKET, June 12, 2025, <https://perma.cc/E87D-XDRX>; *see also* Jude Joffe-Block & Miles Parks, *The Trump Administration Is Building a National Citizenship Data System*, NPR, June 29, 2025, <https://perma.cc/J8VZ-X4N4> (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://perma.cc/5W2N-SS2Q>.

¹⁰ *See, e.g.,* Carter Walker, *This Pa. Activist Is the Source of False and Flawed Election Claims Gaining Traction Across the Country*, VOTEBEAT (Feb. 12, 2024), <https://perma.cc/HQ9C-TMT7> (discussing Honey’s “false” claims regarding voting in Pennsylvania in 2020 and her extensive collaboration with Mitchell); *see also* Brett Sholtis, *Pa. Election Integrity Group Met with 2 Architects of 2020 Effort to Overturn Election*, LANCASTERONLINE (July 21, 2024), <https://perma.cc/K92T-L288> (describing Mitchell meeting with PA Fair Elections).

¹¹ *See* Brett Sholtis, *‘PA Fair Elections,’ Tied to Powerful Conservative Groups, Pushes to Remove People from Voter Rolls*, WESA (Sept. 28, 2024), <https://perma.cc/8FNC-5KH9>; *see also* Kroll & Surgey, *supra*, <https://perma.cc/4MEZ-82SF> (“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.”).

election, over 4,000 Pennsylvania voters were subjected to mass-challenges lodged by individuals affiliated with PA Fair Elections.¹² Public reporting and contemporaneous hearing testimony confirmed that PA Fair Elections helped facilitate these challenges, which were based on self-evidently flawed attempts to analyze and match data from the Pennsylvania voter database with external sources.¹³ The baseless voter challenges were eventually all rejected. *See, e.g.,* Carter Walker, *Efforts to Challenge Pennsylvania Voters' Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5>.

According to public reporting, as another part of its efforts to use novel and unspecified forms of data analysis to scrutinize state voter data and target voters for potential disenfranchisement, DOJ last year asked staffers from the new “Department of Governmental Efficiency” (“DOGE”) to identify noncitizens in state voter rolls by matching voter data with data from the Social Security Administration.¹⁴ DOJ officials have since claimed that “we’ve checked 47.5 million voter records” and found “several thousand non-citizens who are enrolled to vote in

¹² *See* Carter Walker, *Efforts to Challenge Pennsylvania Voters' Mail Ballot Applications Fizzle*, SPOTLIGHT PA, Nov. 8, 2024, <https://perma.cc/YL7J-NUV5> (describing mass-challenges and noting connection to Honey and her organization “PA Fair Elections”); 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://perma.cc/AMZ5-TFHQ> (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://perma.cc/9993-RZ6E> (same).

¹³ *E.g.,* Bethany Rodgers, *Testimony: Pa. Election Denial Group Behind Voter Registration Cancellation Form Mailings*, GOERIE.COM (Nov. 2, 2024), <https://www.goerie.com/story/news/politics/elections/state/2024/11/02/pa-voter-registration-cancellation-letters-chester-county/75996247007>. A challenger in one county testified about PA Fair Elections' involvement. Chester County, *Nov. 1, 2024 Election Board Hearing* at 50:30-51:34; 58:00-58:47; 1:54:58-1:55:19, <https://chestercopa.portal.civicclerk.com/event/852/media>.

¹⁴ *E.g.,* Miles Parks & Jude Joffe-Block, *Trump's DOJ focuses in on voter fraud, with a murky assist from DOGE*, NPR, May 22, 2025, <https://www.npr.org/2025/05/17/nx-s1-5383277/trump-doj-doge-noncitizenvoting>.

Federal elections,” although public reporting indicates that these efforts are producing false positives—*i.e.*, that they are flagging U.S. citizens as being non-citizens who are ineligible to vote.¹⁵

A recent federal court filing by DOJ further corroborates how United States officials have been seeking to use voter data in conjunction with DOGE-inspired data-matching and aggregation techniques, and have been working with outside “election integrity” advocates seeking to deny election results in those efforts. As detailed in the filing, which was made on behalf of the U.S. Social Security Administration (SSA):

[I]n March 2025, a political advocacy group contacted two members of SSA’s DOGE Team with a request to analyze state voter rolls that the advocacy group had acquired. The advocacy group’s stated aim was to find evidence of voter fraud and to overturn election results in certain States. In connection with these communications, one of the DOGE team members signed a “Voter Data Agreement,” in his capacity as an SSA employee, with the advocacy group. He sent the executed agreement to the advocacy group on March 24, 2025.

Notice of Corrections to the Record at 5, *Am. Fed’n of State, Cnty. & Mun. Emps., AFL-CIO v. Soc. Sec. Admin.*, No. 1:25-cv-596-ELH, Dkt. No. 197 (D. Md. Jan. 16, 2026); *see also* Kyle Cheney, *Trump Administration Concedes DOGE Team May Have Misused Social Security Data*, POLITICO, Jan. 20, 2026, <https://www.politico.com/news/2026/01/20/trump-musk-doge-social-security-00737245>. The filings, which do not specify the terms of the “Voter Data Agreement” or the activities these DOGE actors or others undertook pursuant to it, also indicated that, around the same period, DOGE actors also shared unknown amounts of social security data on an unapproved

¹⁵ December 5, 2025 Post by @AAGDhillon <https://x.com/AAGDhillon/status/1997003629442519114>; *see* Jude Joffe-Block, *Trump’s SAVE Tool Is Looking for Noncitizen Voters. But It’s Flagging U.S. Citizens Too*, NPR, Dec. 10, 2025, <https://www.npr.org/2025/12/10/nx-s1-5588384/savevoting-data-us-citizens>.

third-party server, in a “manner [that] is outside SSA’s security protocols.” Notice of Corrections to the Record, *supra*, at 6.

C. The United States Seeks to Unlawfully Use the Data to Disenfranchise Voters

Additional federal government documents indicate how that the United States ultimately plans to use voters’ sensitive personal data: to assert control over voting eligibility in the states, to order the disenfranchisement of voters, and potentially to contest the results of state-run elections.

In connection with its requests for states’ voter data, the United States has begun asking states to execute a memorandum of understanding (“MOU”) describing how the data will be used. *See* Ex. C, U.S. Dep’t of Just., Civ. Div., Confidential Mem. of Understanding (“MOU”); *see also* Ex. D, Dec. 4 Transcript Excerpts from *United States v. Weber*, No. 25-cv-09149, at 72–73, 90 (DOJ attorney discussing MOU). The terms of the MOU purport to vest the United States with substantial new authority to identify supposedly ineligible voters on state voter rolls and then to compel states to remove these voters from the rolls, depriving them of the franchise.

The NVRA and HAVA give states the responsibility of conducting a “reasonable effort” to maintain voter lists and remove actually ineligible voters from the rolls. 52 U.S.C. § 20507(a)(4); § 21083(a)(4)(A). The particular procedures developed for complying with HAVA’s requirement to maintain a centralized voter file are thus “left to the discretion of the State.” 52 U.S.C. § 21085. Moreover, the NVRA builds in significant protections for voters, requiring that, once identified, certain potentially ineligible voters *must* necessarily stay on the rolls for two election cycles so as to limit the likelihood of a state removing eligible voters by mistake. *Id.* § 20507(d)(1)(B). That is consistent with Congress’s core goals in the NVRA of protecting and expanding the right to register to vote and participate in democracy. *E.g.*, 52 U.S.C. § 20501.

The terms of the MOU, however, purport to place authority to identify supposed ineligible voters in the hands of the federal government. MOU at 2, 5. The MOU makes DOJ a “Custodian”

of the state’s voter file, and provides that DOJ will analyze the file and identify “any voter list maintenance issues, insufficiencies, inadequacies, deficiencies, anomalies, or concerns, the Justice Department found when testing, assessing, and analyzing your state’s [voter list] for NVRA and HAVA compliance, i.e., that your state’s [voter list] only includes eligible voters.” MOU at 4–5. And under the MOU’s terms, once federal officials identify supposed “ineligible voters,” states would be required to “remov[e]” these voters “within forty-five (45) days” and then resubmit their voter lists for additional analysis, MOU at 5. These removals would be required under the terms of the MOU notwithstanding the procedural protections afforded to voters by the NVRA, including the statute’s firm bar on systematic removals of voters within 90 days of an election, 52 U.S.C. § 20507.¹⁶

Extensive public reporting, including government documents created by the DOJ and DOJ officials’ own statements and admissions, thus indicate that the United States’s aim in seeking sensitive voter data on millions of Americans is to turn states’ own voter rolls into a tool for unlawfully and improperly mass-challenging voters and interfering with the democratic process in the states. Recent events have further highlighted the extremely abnormal nature of the United States’ request. On January 24, 2026, Attorney General Pamela Bondi wrote a letter to Minnesota Governor Tim Walz, purporting to discuss DHS’s “Operation Metro Surge” activities in the Twin Cities amidst ongoing violence against the civilian population there.¹⁷ The letter purports to set out

¹⁶ See also Jonathan Shorman, *Trump’s DOJ Offers States Confidential Deal to Remove Voters Flagged by Feds*, STATELINE, Dec. 18, 2025, <https://stateline.org/2025/12/18/trumps-doj-offers-states-confidential-deal-to-wipe-voters-flagged-by-feds-as-ineligible/>.

¹⁷ Read *Bondi’s Letter to Minnesota’s Governor*, N.Y. TIMES, Jan. 24, 2026, <https://perma.cc/H5GY-ZKBS> (“Bondi Letter”); see also Order, *Tincher v. Noem*, No. 0:25-cv-04669-KMM-DTS (D. Minn. Jan. 16, 2026), Dkt. No. 85 (granting injunction against certain DHS practices towards the civilian population of Minneapolis-St. Paul in connection with purported immigration enforcement operations there).

three actions that Minnesota—which is one of the states DOJ has sued to try to obtain sensitive voter data—should take to “restore the rule of law, support ICE officers, and bring an end to the chaos in Minnesota,” one of which is to “allow the Civil Rights Division of the Department of Justice to access voter rolls to confirm that Minnesota’s voter registration practices comply with federal law as authorized by the Civil Rights Act of 1960.”¹⁸

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); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). When considering a motion to dismiss, a court need not accept the complaint’s legal conclusions. *Iqbal*, 556 U.S. at 678. A complaint must state a “plausible claim for relief” and contain more than “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Id.* at 678–79.

Thus, in practice, while courts “accept[] all well-pled facts as true and construe[] these facts in the light most favorable to the plaintiff,” they ignore “legal conclusions, elements of a cause of action, and bare assertions devoid of further factual enhancement.” *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 255 (4th Cir. 2009). Courts can also “consider documents incorporated into the complaint by reference, and matters of which a court may take judicial notice,” as well as “documents attached to the motion to dismiss, so long as they are integral to the complaint and authentic.” *Just Puppies, Inc. v. Brown*, 123 F.4th 652, 660 (4th Cir. 2024) (internal citations and quotation marks omitted).

¹⁸ Bondi Letter at 2, 3.

ARGUMENT

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

When the Attorney General invokes Title III of the CRA to demand voting-related documents from the states, she must provide “a statement of the basis and the purpose” for her request. 52 U.S.C. § 20703.

The United States fails to state a claim under the CRA for at least two distinct reasons. *First*, as set forth in the Complaint, and as reflected in the requests themselves, DOJ failed to set forth a statutorily sufficient statement of “the basis and the purpose” of its demand for Virginia’s full and unredacted state voter registration list. *Second*, to the extent the United States might be entitled to any records under the CRA, those records would need to be redacted to protect the privacy and constitutional rights of Virginia voters. State and federal law would require such redaction, and nothing in the CRA prevents the appropriate redaction of the sensitive personal information of voters. The United States’ CRA claim seeking the unredacted records is thus legally deficient for that reason as well.

A. The United States’ Demand for Records Fails to Meet the Statutory Requirements of the CRA.

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 United States failed to provide “a statement of the basis and the purpose” for the requests sufficient to support disclosure of the unredacted voter file.¹⁹ *Id.*; see Compl. ¶¶ 25–27.

Consistent with the statutory text, contemporaneous case law immediately following the enactment of Title III of the CRA consistently treated “the basis” and “the purpose” as two related, but distinct, concepts. See *Kennedy v. Lynd*, 306 F.2d 222, 229 n.6 (5th Cir. 1962); *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). The “basis” is the statement of *why* the Attorney General believes there may be a violation of federal civil rights law in the first place, whereas the “purpose” explains *how* the requested records would help the Attorney General ultimately determine if there is, in fact, a violation of the law. *Lynd*, 306 F.2d at 229 n.6.

The basis-and-purpose requirement under the CRA is a “critical safeguard that ensures the request is legitimately related to the purpose of the statute.” *Weber*, 2026 WL 118807, at *9. It prevents the statute from being used for a “fishing expedition” to obtain records for reasons that are speculative, unrelated to the CRA’s aims, or otherwise impermissible or contrary to law. *Id.* The statutory basis-and-purpose requirement therefore is not perfunctory but requires a specific statement as to the reason for requesting the information and how that information will aid in the investigatory analysis. That is consistent with other federal

¹⁹ Intervenors assume for purposes of this Motion that the statewide electronic voter file may constitute a “record” or “paper” “relating to any application, registration, payment of poll tax, or other act requisite to voting” that has “come into [the Secretary’s] possession.” 52 U.S.C. § 20701. However, no court has ever addressed the question.

statutes allowing federal agencies to obtain records in service of investigations, where courts have found that the test of whether federal demands for records are enforceable includes an evaluation of whether the underlying investigation is “conducted pursuant to a legitimate purpose,” *Equity Inv. Assocs., LLC v. United States*, 40 F.4th 156, 161–62 (4th Cir. 2022) (quoting *United States v. Powell*, 379 U.S. 48, 57 (1964)), and that such subpoenas are not in service of “unnecessary examination or investigations,” *United States v. Rosinsky*, 547 F.2d 249, 253 (4th Cir. 1977) (internal quotation marks omitted). Indeed, courts have explained that such a purpose requirement ensures 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 pursuant to an administrative subpoena).

As set forth below, the United States failed to articulate in its demand and in the Complaint “the basis and the purpose” for its request for Virginia voters’ sensitive voter information. The United States’ demand fails to meet this requirement of the CRA for at least three distinct reasons. These failures warrant dismissal of the case.

First, the United States simply has not stated a proper “basis” for its demand. The United States alleges that its August 14 Letter, which first invoked Title III, “explained that the basis of the [] request was that the CRA requires the [voter file] to be made available to the Attorney General upon her demand.” Compl. ¶ 26. But the United States never quotes the August 14 Letter in the Complaint or appends it, and to the extent the United States alleges without quoting or including the document that it actually set forth the “basis” for its request in the letter, that allegation would be implausible. The tranche of identical letters sent on August 14 actually state: [p]ursuant to the foregoing authorities, including the CRA, the Attorney General is demanding an electronic copy of [the state’s] complete and current [voter file]. The purpose of the request is to

ascertain [the state's] compliance with the list maintenance requirements of the NVRA and HAVA.” Compilation of August 14 Letters at 2, 5, 8, 11, 14, 17. These letters never state the basis for the request. Where a plaintiff’s complaint is contradicted by the documents incorporated by reference therein, “crediting the document over conflicting allegations in the complaint is proper.” *E.g., Goines v. Valley Cmty. Servs. Bd.*, 822 F.3d 159, 167 (4th Cir. 2016). That is the case here with respect to the August 14 Letter, which is incorporated by reference in the Complaint and which almost certainly contains identical operative text to the other six letters that were all sent on the same day to other states by the Assistant Attorney General.²⁰

And even taking the Complaint at face value, the “basis” that the United States claims it “explained” in its Complaint, Compl. ¶ 26, is circular and facially deficient. Again, the “basis” for a CRA request is a statement of *why* the United States believes there is some relevant violation of law. *See Lynd*, 306 F.2d at 229 n.6; *accord Weber*, 2026 WL 118807, at *9 (“The basis is the reasoning provided by the DOJ regarding the evidence behind its investigation of a particular state and specific, articulable facts pointing to the violation of federal law.”); *see also Basis*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/basis> (“something on which something else is established or based”). The assertion that “the CRA requires the [voter file] to be made available to the Attorney General upon her demand,” Compl. ¶ 26, says nothing about *why* the United States seeks the requested information or even what potential violations of law it is investigating. When the Attorney General requests records pursuant to Title III, she necessarily asserts her belief that the CRA entitles her to those records. If merely claiming “the CRA requires [it]” was all that was needed to meet the express statutory obligation to specifically set forth, “in

²⁰ Intervenors reserve the right to update this submission to include a copy of the August 14 Letter to Commissioner Beals once one is obtained or otherwise made public.

writing,” the “basis” for the request, 52 U.S.C. § 20703, that obligation would be rendered “wholly superfluous,” violating the cardinal need “to give effect, if possible, to every clause and word of a statute.” *E.g., Duncan v. Walker*, 533 U.S. 167, 174 (2001) (quoting *United States v. Menasche*, 348 U.S. 528, 538–39 (1955)).

Nor is other potential “basis” for the request pleaded. The Complaint alleges that DOJ was at one point “seeking information regarding Virginia's compliance with federal election law,” specifically the NVRA and HAVA, based on its review of the Election Administration and Voting Survey 2024 Comprehensive Report from the U.S. Election Assistance Commission (“2024 EAVS Report”). Compl. ¶ 20-21; *see* July 15 Letter. The United States generally alleges that, for the 2024 EAVS Report, Virginia and other participating states “reported data on their efforts to keep voter registration lists current and accurate, known as list maintenance.” Compl. ¶ 20. But notwithstanding general references to the statistics in the 2024 EAVS Report, the Complaint does not allege evidence of anything inconsistent with reasonable list maintenance efforts in the data Virginia reported to EAVS. *See* Compl. ¶¶ 20-24. And again, if it was indeed the same demand letter that was sent to other states on that date, the August 14 Letter where the United States actually made its “demand in writing” pursuant to Title III never asserted that anything in the 2024 EAVS Report was the “basis” for the request. 52 U.S.C. § 20703; *see* Compilation of August 14 Letters. The United States’s failure to properly set forth any “basis” for the demand is sufficient grounds for dismissal of this action. *See Weber*, 2026 WL 118807, at *9.

Second, even if the United States had provided a proper “basis” for its demand—and it did not—it also did not explain, and has not explained, any connection between its stated “purpose” and the vast scope of its records request here, seeking the full and unredacted Virginia statewide voter file. The Complaint does not even attempt to articulate *how* unredacted voter files are

necessary to “ascertain Virginia’s compliance with the list maintenance requirements of the NVRA and HAVA,” Compl. ¶ 27. Neither DOJ’s letter nor the Complaint explains how this information will enable the United States to determine whether Virginia is doing what the statute actually says it must do, namely, “conduct 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. *See* Compl. ¶ 27. Nor could it, because such unredacted files would not assist DOJ in examining this question: 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. *Id.*; 52 U.S.C. § 20507(a)(4).

The NVRA and HAVA both leave the mechanisms for conducting list maintenance within the discretion of the State. *See* 52 U.S.C. § 20507(a)(4), (c)(1); § 21083(a)(2)(A); § 21085. Even if the United States used voter file data to identify voters who had moved or died on Virginia’s voter list at a single point in time, that would not amount to Virginia 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” and rejecting any “quantifiable, objective standard” in this context).²¹ It is the *procedures* carried out by a state or locality that establish its compliance with federal list maintenance requirements; the unredacted voter file itself does not.

²¹ Indeed, the inclusion on Virginia’s voter registration list at any particular point in time of some voters who may have moved out of state is, if anything, to be expected. Section 8(d) of the NVRA explicitly sets out a specific set of rules and requirements for removals from the voter rolls based on changes of residence, whereby states “shall not remove” voters on these grounds unless these voters directly confirm their change of residence in writing, or unless states first provide notice and then abide by a statutory waiting period until the second general federal election after providing notice. 52 U.S.C. § 20507(d).

Moreover, even if some portion of the voter file were necessary to “ascertain Virginia’s compliance with the list maintenance requirements of the NVRA and HAVA,” Compl. ¶ 27, the United States has not pleaded or otherwise pointed to any justification for why the full unredacted voter file is necessary to carry out this purported purpose. It is telling that, for decades, DOJ has neither sought nor required a full and unredacted voter file in its investigations regarding compliance with the NVRA. *See, e.g.*, Press Release, U.S. Dep’t of Just., *United States Announces Settlement with Kentucky Ensuring Compliance with Voter Registration List Maintenance Requirements* (July 5, 2018), <https://perma.cc/G2EZUUA5> (describing letters to all 44 states covered by the NVRA with requests for list maintenance information, but without demanding voter files). For this reason, too, the Complaint does not plausibly plead that DOJ has met the basis and purpose requirements of the CRA.

Third, even if the United States had plausibly set forth some facially sufficient statement of the basis and the purpose for its request related to compliance with the NVRA and HAVA, the CRA claim would also be subject to dismissal because DOJ’s stated reason for requesting the sensitive personal data of millions of Virginia voters is pretextual.

Section 303 of the CRA requires a statement of “*the* basis and *the* purpose” of a records request. 52 U.S.C. § 20703 (emphasis added). By twice using the definite article, the statute requires not just *a* basis or purpose among many, but *the* complete basis and purpose underlying the request. *See Niz-Chavez v. Garland*, 593 U.S. 155, 165–66 (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 the indefinite article). But the United States has not disclosed the actual purpose for its requests, and this Court “is not obliged to accept a contrived statement and purpose” in place of an accurate one. *Weber*, 2026 WL 118807, at *10.

Public reporting and public, judicially noticeable documents confirm that the United States’ *actual* purpose is not to ensure compliance with the NVRA and HAVA, but to build an unprecedented national voter file through novel, error-prone, DOGE-inspired forms of data-matching and then to use this tool to identify ostensibly ineligible voters and challenge their right to vote. *See supra* 9-15 & nn.7-18. As the *Weber* court characterized it, considering the same robust set of public reporting and documents, “[i]t appears that the DOJ is on a nationwide quest to gather the sensitive, private information of millions of Americans for use in a centralized federal database.” 2026 WL 118807, at *10.

The creation of a national voter database—much less one designed for targeting and mass-challenging voters—has never been authorized by Congress, and would violate (among other provisions of federal law) the federal Privacy Act’s prohibition on 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. *See* 5 U.S.C. § 552a(e)(7).

Now consider the MOU that the United States has recently sought for states to sign in connection with its requests for statewide voter files. *See supra* 13-14. Far from indicating a purpose of ensuring compliance with the NVRA and HAVA, this MOU runs directly afoul of those statutes.²² For one, the MOU seeks to place authority to identify supposed ineligible voters in the hands of the federal government, directly contrary to statute’s requirement that procedures for complying with HAVA be “left to the discretion of the State.” 52 U.S.C. § 21085; MOU at 2, 5. In addition, the MOU’s substantive terms would allow DOJ to compel states to remove supposedly

²² This Court can take judicial notice of the MOU as a government document produced by DOJ. *See, e.g., Shore v. Charlotte-Mecklenburg Hosp. Auth.*, 412 F. Supp. 3d 568, 573 (M.D.N.C. 2019); *see also, e.g., Navigators Ins. Co. v. Under Armour, Inc.*, No. 25-1068, --- F.4th ----, 2026 WL 137123, at *6 n.9 (4th Cir. Jan. 20, 2026).

ineligible voters “within forty-five (45) days,” MOU at 5, in a manner that would violate multiple protections of the NVRA, including the requirement to provide voters with notice prior to their removal from the rolls, and the firm bar against systematic voter removals within 90 days of an election. 52 U.S.C. § 20507. The MOU confirms that DOJ’s stated purpose of ensuring compliance with the NVRA and HAVA is not accurate or plausible, and that its actual purpose for seeking to ingest the sensitive personal information of millions of Virginia voters involves defying those statutes and the procedural protections they afford in order to unlawfully centralize control over state voter rolls in the hands of the federal executive.

And now consider the Attorney General’s recent letter to Minnesota Governor Tim Walz, demanding that Minnesota turn over voters’ private data in order to help “support ICE officers” and “bring an end to the chaos” being inflicted on the civilian population there by DHS agents ostensibly tasked with enforcing the immigration laws. *See supra* 15. The Bondi Letter, purporting to connect DOJ’s request for state voter data with the Administration’s draconian immigration-enforcement efforts, further highlights DOJ’s failure to disclose the true purpose of the request here.

The United States’ failure to honestly disclose what it is doing and will do with voters’ sensitive personal information—to state *the* true purpose for the demand for Virginians’ protected personal data—is independently fatal to the CRA claim. “Congress passed the NVRA, Civil Rights Act, and HAVA to protect voting rights. If the DOJ wants to instead use these statutes for more than their stated purpose, circumventing the authority granted to them by Congress, it cannot do so under the guise of a pretextual investigative purpose.” *Weber*, 2026 WL 118807, at *12.

B. The United States' Demand Is Invalid Because It Does Not Allow for Redactions and Modifications to Protect the Privacy and Constitutional Rights of Voters.

Even had the United States provided a valid basis and purpose sufficient to support its demands—which it did not—its request would also be legally deficient because it does not allow for redactions, omissions, or other modifications to protect the privacy rights of Virginia voters. The text of Title III of the CRA does not prohibit redactions to protect voter privacy and ensure compliance with federal and state law and the Constitution. 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. But the United States has nevertheless sought only the full and unredacted voter file. Compl. ¶¶ 22, 25 & p.10. Its CRA claim is accordingly defective and may be dismissed on that ground as well.

Redaction and modification of voting records to ensure voters' privacy is commonplace before a State discloses such records to a requesting party. Title III of the CRA has not been invoked in decades, but the NVRA provides a ready analogue. The NVRA requires States to maintain “all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters” and to make such records available for “public inspection” upon request. 52 U.S.C. § 20507(i); *see also* Compl. ¶¶ 11–13 (discussing the NVRA). Anyone—including individual voters, groups that protect the right to vote, and government officials—has the same right to such records under the NVRA. Voting rights advocates have thus consistently relied on the NVRA to investigate infringements of the right to vote, including whether election officials have improperly denied or cancelled voter registrations. *See, e.g., Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 333 (4th Cir. 2012) (nonprofit investigating improper rejection of voter registrations submitted by students at a

historically Black university). And courts have consistently held that redacting voters' sensitive personal data is necessary under the NVRA.

The text of the NVRA does not address redaction, but the Fourth Circuit has recognized that, in disclosing voting-related information pursuant to the NVRA's public records provisions, "uniquely sensitive information" may properly be redacted. *Long*, 682 F.3d at 339; *accord Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 56 (1st Cir. 2024) (because "nothing in the text of the NVRA prohibits the appropriate redaction of uniquely or highly sensitive personal information in the Voter File," such redaction of "certain personal information" may be required to "assuage the potential privacy risks implicated by the public release of the Voter File"). Courts must interpret the disclosure provisions in statutes like the NVRA and the CRA in a manner that does not unconstitutionally burden the right to vote. *See United States v. Simms*, 914 F.3d 229, 251 (4th Cir. 2019) ("We are obligated to construe a statute to avoid constitutional problems" where "such a reading is fairly possible") (cleaned up). Federal courts throughout the country have consistently struck this balance, interpreting the "all records concerning" language in Section 8(i) to permit—and even in some cases require—redaction and the protection of confidential material. *See, e.g., Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 264 (4th Cir. 2021) (NVRA disclosure provisions "must be read in conjunction with the various statutes enacted by Congress to protect the privacy of individuals and confidential information held by certain governmental agencies" and protecting sensitive information from disclosure); *see also 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); *Pub. Int. Legal Found. v. Boockvar*, 431 F. Supp. 3d 553, 561–63 (M.D. Pa. 2019).

Just like the NVRA, the CRA is also silent as to how sensitive personal information should be treated during disclosure. *Compare* 52 U.S.C. § 20703 *with* § 20507(i)(1). Courts’ treatment of information requests under the NVRA is thus highly instructive in this case—and as with the NVRA, the disclosure provisions of Title III of the CRA must be construed to avoid intolerable burdens on critical privacy rights. *See Long*, 682 F.3d at 339; *see also Bellows*, 92 F.4th at 56; *N.C. State Bd. of Elections*, 996 F.3d at 264. *Cf. Sheetz v. Cnty. of El Dorado, Cal.*, 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.”).

Redaction of voters’ personal identifying information would be required here for that reason. Disclosure of voters’ sensitive personal information 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). For example, the Fourth Circuit in *Long*, even while granting access to a state’s voter registration applications for inspection and photocopying pursuant to the NVRA’s disclosure provisions, ensured the redaction of Social Security numbers, which are “uniquely sensitive and vulnerable to abuse.”²³ *Id.* In coming to this conclusion, the court emphasized that the NVRA reflected Congress’s view that the right to vote was “fundamental,” and that the unredacted release of voters’ personal information risked deterring citizens from registering to vote in the first place, and thus created an “intolerable burden” on this

²³ The United States itself has stated—on multiple occasions—that the NVRA does not prohibit the States from redacting “uniquely sensitive information” when disclosing voting records. *See, e.g., Br. for the United States as Amicus Curiae, Pub. Int. Legal Found., Inc. v. Bellows* (“United States Amicus Brief”), No. 23-1361 (1st Cir. July 25, 2024), 2023 WL 4882397 at *27–28; *Br. for the United States as Amicus Curiae, Pub. Int. Legal Found. v. Schmidt*, No. 23-1590 (3d Cir. Nov. 6, 2023), <https://perma.cc/3BQ9-36UJ> (“States may redact certain information before disclosing Section 8(i) records.”); *Br. for the United States as Amicus Curiae* at 11, 25–26, *Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331 (4th Cir. 2012) (No. 11-1809), 2011 WL 4947283, at *11, 25–26.

fundamental right. *Id.* at 334, 339. The danger of imposing those burdens on Virginia voters and good-government civic groups like Common Cause is present here. *See* Ex. A to Mot. to Intervene, Declaration of Suzanne Almeida at ¶¶ 11-13.

Federal statutory law would meanwhile require (at a minimum) both substantial redaction of sensitive information like Social Security and Driver’s License Number information, as well as significant additional procedural steps such as a “privacy impact statement” and hard limitations on interagency sharing in order to comply with the guardrails mandated by the Federal Privacy Act, the E-Government Act, and the Driver’s Privacy Protection Act. *Weber*, 2026 WL 118807, at *17-*19 (holding that United States’ request for complete California voter file would violate each of these statutes).²⁴

The limited case law considering records requests under the CRA is not contrary to any of this. Even in the very different context of the Jim Crow South in the early 1960s, the CRA cases expressly acknowledge that courts retain the “power and duty to issue protective orders,” *Lynd*, 306 F.2d at 230, and to shield voters’ private, sensitive personal information from disclosure. *See id.* at 231 (“[W]e 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”); *see*

²⁴ The Privacy Act flatly prohibits collecting and maintaining records of First Amendment activity, which includes voting history and party affiliation. 5 U.S.C. §§ 552a(a)(3), (a)(5), (e)(4), (e)(7), (f). It also requires the publication of notice in the Federal Register before the collection of data, *id.* § 552a(e)(4), which the United States does not allege it did here, *see Weber*, 2026 WL 118807, at *18. The E-Government Act requires the publication of a “privacy impact assessment” “prior to ‘initiating a new collection of information’ that ‘includes any information in an identifiable form permitting the physical or online contacting of a specific individual’ if the information encompasses ‘10 or more persons.’” *Id.* at *19 (quoting E-Government Act § 208(b)). Again, the United States does not allege it did that here. Finally, the Driver’s Privacy Protection Act “prevents the disclosure of ‘personal information’ that is obtained by” a state Department of Motor Vehicles “in connection with a ‘motor vehicle record.’” *Id.* (quoting 18 U.S.C. §§ 2721(a), 2725(1), (3), & (4); *Reno v. Condon*, 528 U.S. 141, 143 (2000)). Virginia receives voter information from its Department of Motor Vehicles.

also In re Coleman, 208 F. Supp. at 200 (noting, in the context of a records request under Title III of the CRA, multiple considerations not at issue in that case but which could be “[s]ignificant,” including that “[i]t is not claimed that these 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”).

Despite the need for privacy protections for voters’ sensitive personal information, the United States nevertheless demands the full, unredacted voter file with no redactions, modifications, and/or other procedural steps to protect voters’ and ensure compliance with federal law. That is a fatal deficiency. Even were the United States entitled to records under Title III after having provided a valid statement of the basis and the purpose therefor (which it failed to do here), sensitive personal identifying information would need to be redacted or omitted. Conditioning the right to vote on the release of voters’ sensitive private information “creates an intolerable burden on that right.” *Long*, 682 F.3d at 339 (cleaned up). The United States’s claim seeking the full and unredacted voter file and the sensitive personal identifying information of every registered Virginia voter must be dismissed.

CONCLUSION

The United States’ Complaint should be dismissed.

Dated: January 30, 2026

Respectfully submitted,

/s/ Davin Rosborough

Ari J. Savitzky*
Davin Rosborough (Va. Bar No. 85935)
Sophia Lin Lakin*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
Tel.: (212) 549-2500
Facsimile: (212) 549-2539
asavitzky@aclu.org
drosborough@aclu.org
slakin@aclu.org

Patricia J. Yan*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15th Street NW
Washington, DC 20005
Tel.: (202) 457-0800
pyan@aclu.org

Counsel for Common Cause and Katherine Ellena

** application for admission pro hac vice
forthcoming*

EXHIBIT A

**U.S. Department of Justice**

Civil Rights Division

*Voting Section
950 Pennsylvania Ave, NW – 4CON
Washington, DC 20530*

July 15, 2025

Via Mail and Email

The Honorable Susan Beals
Commissioner, Virginia Department of Elections
1100 Bank Street, First Floor
Richmond, Virginia 23219
susan.beals@elections.virginia.gov

Dear Commissioner Beals:

We write to you as the chief election official for the Commonwealth of Virginia to request information regarding Virginia's procedures for complying with the statewide voter registration list maintenance provisions of the National Voter Registration Act ("NVRA"), 52 U.S.C. § 20501 *et seq.*

Please provide a list of the election officials who are responsible for implementing Virginia's general program of voter registration list maintenance from November 2022 through receipt of this letter, including those responsible officials not employed by your office (such as local election officials) who are also involved in that effort. Please also provide a description of the steps that you have taken, and when those steps were taken, to ensure that the Commonwealth's list maintenance program has been properly carried out in full compliance with the NVRA.

The NVRA requires each state and the District of Columbia to make available for inspection "all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." 52 U.S.C. § 20507(i)(1). Section 11 of the NVRA authorizes the Attorney General to bring NVRA enforcement actions. *See* 52 U.S.C. § 20510.

Pursuant to Section 20507(i) of the NVRA, the Attorney General requests that you produce for inspection the following records:

The current electronic copy of Virginia's computerized statewide voter registration list ("statewide voter registration list") as required by Section 303(a) of the Help America Vote Act. Please include all fields contained within the list. Please produce each list in a .xls, .csv, or delimited-text file format. Please specify what delimiter is used, if applicable, or provide a file layout along with a database user manual, coding list, or other materials that define or explain how a voter record is coded into the statewide voter registration list and reported in the electronic copy of the statewide voter registration list.

Additionally, please provide the following information in electronic form. The time period for these requests is close of registration for the November 2022 general election through the close of registration for the November 2024 general election, the same time period as the most recent report from the Election Assistance Commission's Election Administration and Voting Survey ("EAVS"). If you are unable to provide the data, please explain why the data is not available.

1. A review of the most recent report from EAVS report indicates that in response to Question A1b, there are nearly as many registered voters listed as active as the citizen voting age population in Virginia, with a registration rate in 2024 of 92.2 percent of the citizen voting age population. Please explain what actions Virginia is taking to ensure that voters who should not be on the voter roll are being removed.
2. In the EAVS data for Question A3d, Virginia had 1,074,543 voters (33.2 percent) with duplicate registrations, almost three times as high as the nationwide average of 12.7 percent. In response to the same question for the 2022 EAVS Report, Virginia had 1,226,754 duplicate registrations (36.3 percent). Please explain why duplicate registrations are such a high percentage of the total registration applications received. Please explain what actions Virginia is taking to identify duplicate registrations and to remove those duplicates from the voter registration list.
3. In the EAVS data for Question A10a, Virginia sent 521,339 confirmation notices, which is 8.8 percent of all active registered voters and well below the national average of 19.5 percent. Please explain why Virginia sent confirmation notices to so few registered voters.
4. In the EAVS data for Question A12b, Virginia had 536,460 voters (68.4 percent) removed because they moved out of the commonwealth, which was twice as high as the national average. Please explain how Virginia identifies voters who have moved out of the commonwealth and determines their removal from the voter registration list.
5. In the EAVS data for Question A12e, Virginia had 61,151 voters (7.8 percent) removed due to failure to respond to confirmation notices and did not vote in the two most recent federal elections, which was well below the national average. Based on the responses to Question A10f, 415,181 (79.6 percent) of the confirmation notices were unreturned. Please explain why so few voters are being removed in Question A12e. Please provide a list of all registrations that were cancelled because of failure to respond to confirmation notices and did not vote in the two most recent federal election cycles.
6. No data was listed in the EAVS survey for Question A12h for Virginia regarding duplicate registrants who were removed from the statewide voter registration database. Please provide a list of all duplicate registrants who were removed from the statewide voter registration list. If they were merged or linked with another record, please provide that information.

Please provide a description of the steps that Virginia has taken, and when those steps were taken, to identify registered voters who are ineligible to vote as well as the procedures the commonwealth used to remove those ineligible voters from the registration list. Please identify the number of registered voters identified as ineligible to vote for the time period of the close of registration for the November 2022 general election through present for each of the following reasons:

1. Non-citizen
2. Adjudicated incompetent
3. Felony conviction

For each of those voters identified in categories 1-3 above, provide their registration information on the statewide voter registration list, including their vote history.

Please provide this information within 14 days of the date of this letter. The information and materials may be sent by encrypted email to voting.section@usdoj.gov or via the Department's secure file-sharing system, Justice Enterprise File Sharing (JEFS).

Should further clarification be required, please contact Maureen Riordan at maureen.riordan2@usdoj.gov. We look forward to your assistance in advance.

Sincerely,



Michael E. Gates
Deputy Assistant Attorney General
Civil Rights Division

Maureen Riordan
Acting Chief, Voting Section
Civil Rights Division

EXHIBIT B



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 14, 2025

The Honorable Adrian Fontes
Arizona Secretary of State
1700 W. Washington Street, Seventh Floor
Phoenix, AZ 85007-2808
sosadmin@azsos.gov

Re: Arizona's Voter Registration List Needs All Fields and Response to July Letter

Secretary Fontes:

This letter responds to your letter of August 8, 2025, in response to the Justice Department's July 28, 2025 letter, in which we made a request to the Secretary of State of Arizona for information regarding the state's procedures for complying with the statewide voter registration list maintenance provisions of the National Voter Registration Act ("NVRA"), 52 U.S.C. § 20501 *et seq.*

Your August 8, 2025, letter states that it will not be possible to provide the requested records by August 11, 2025, and does not specify a time frame by which the Secretary of State will provide the records.

Please provide responses to our questions regarding Arizona's answers to the most recent Election Administration and Voting Survey ("EAVS") by no later than Thursday, August 21. These questions (1 and 2) should be readily answerable based on the state's procedures for sending confirmation notices and processes for identifying and removing duplicate registrations. For example, question 1 asks Arizona to explain how Arizona determines who receives a confirmation notice and how Arizona tracks the results of the notices sent. Question 1 also notes counties that reported no response or zero in specific A10 categories (result of confirmation notice) and particular numbers in Arizona's responses to questions A10a through A10f and asks Arizona to explain the county- and state-level results and provide missing data. If the Secretary of State does not have access to this information, please explain why and describe how the Secretary of State plans to obtain the information.

We also requested the electronic copy of the statewide voter registration list that the state maintains under Section 303(a) of the Help America Vote Act. 52 U.S.C. § 21083(a). Please produce the list by Thursday, August 21, 2025, as well. Section 8(i) of the NVRA requires states to "make available for public inspection . . . all records concerning the implementation of programs and activities

conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters . ” 52 U.S.C. § 20507(i).

In addition to those authorities, the Attorney General is also empowered by Congress to request records pursuant to Title III of the Civil Rights Act of 1960 (“CRA”), codified at 52 U.S.C. § 20701, *et seq.* Section 301 of the CRA requires state and local officials to retain and preserve records related to voter registration and other acts requisite to voting for any federal office for a period of 22 months after any federal general, special or primary election. *See* 52 U.S.C. § 20701.

Section 303 of the CRA provides, in pertinent part, “Any record or paper required by section 20701 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his 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 his representative...” 52 U.S.C. § 20703.

Pursuant to the foregoing authorities, including the CRA, the Attorney General is demanding an electronic copy of Arizona’s complete and current VRL. The purpose of the request is to ascertain Arizona’s compliance with the list maintenance requirements of the NVRA and HAVA.

When providing the electronic copy of the statewide VRL, Arizona must ensure that it contains *all fields*, which includes 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 as required under the HAVA¹ to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

To the extent there are privacy concerns, the voter registration list is subject to federal privacy protections. Section 304 of the CRA provides the answer:

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this chapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

Moreover, HAVA specifies that the “last 4 digits of a social security number . . . shall not be considered a social security number for purposes of section 7 of the Privacy Act of 1974” (5 U.S.C. § 552a note); 52 U.S.C. § 21083(c). In addition, any prohibition of disclosure of a motor vehicle record contained in the Driver’s License Protection Act, codified at 18 U.S.C. § 2721(b)(1), is exempted when the disclosure is for use by a government agency in carrying out the government agency’s function to accomplish its enforcement authority as the Justice Department is now doing.

¹ In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that Justice Department be able to conduct an independent review of each state’s list. Any statewide prohibitions are clearly preempted by federal law.

That said, all data received from you will be kept securely and treated consistently with the Privacy Act.

To that end, please provide the requested electronic VRL with all fields to the Justice Department no later than August 21, 2025. We recognize, however, that other responses to our July 28th letter may take more time. As such, we are prepared to give the Secretary of the Commonwealth until Monday, September 15, to respond to the other requests.

The information and materials may be sent by encrypted email to voting.section@usdoj.gov or via the Department's secure file-sharing system, Justice Enterprise File Sharing ("JEFS"). Should further clarification be required, please contact Maureen Riordan at maureen.riordan2@usdoj.gov.

Regards,

A handwritten signature in blue ink, appearing to read "Harmeet K. Dhillon".

Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division

cc: Lisa Marra
Director, Elections Division
1700 W. Washington Street, Seventh Floor
Phoenix, A 85007-2808
lmarra@azsos.gov



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 14, 2025

Via Mail and Email

The Honorable Brad Raffensperger
Secretary of State
214 State Capitol
Atlanta, GA 30334
soscontact@sos.ga.gov

Re: **Complete Georgia's Voter Registration List - All Fields**

Secretary Raffensperger:

We understand that the time the Justice Department has provided your state to respond to the request for a statewide voter registration list ("VRL") and other information has not reached its deadline.

Given responses from other states thus far, we want to clarify that the Justice Department's request to provide an electronic copy of the statewide VRL should contain *all fields*, which means, your state's VRL must include 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 as required under the Help America Vote Act ("HAVA")¹ to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

We have requested Georgia's VRL to assess your state's compliance with the statewide VRL maintenance provisions of the National Voter Registration Act ("NVRA"), 52 U.S.C. § 20501, *et seq.* Your request is pursuant to the Attorney General's authority under Section 11 of the NVRA to bring enforcement actions. *See* 52 U.S.C. § 20501(a).

The Help America Vote Act ("HAVA"), 52 U.S.C. § 20501, *et seq.*, also provides authority for the Justice Department to seek the State's VRL via Section 401, which makes the Attorney

¹ In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that DOJ be able to conduct an independent review of each state's list. Any statewide prohibitions are clearly preempted by federal law.

General solely responsible for actions to enforce HAVA's computerized statewide voter registration list requirements. *See* 52 U.S.C. § 21111; *see also* *Orner v. Ohio Republican Party*, 555 U.S. 5, 6 (2008) (*Orner v. Ohio Republican Party*) (finding there is no private right of action to enforce those requirements in HAVA).

In addition to those authorities, the Attorney General is also empowered by Congress to request records pursuant to Title III of the Civil Rights Act of 1960 ("CRA"), codified at 52 U.S.C. § 20701, *et seq.* Section 301 of the CRA requires state and local officials to retain and preserve records related to voter registration and other acts requisite to voting for any federal office for a period of 22 months after any federal general, special or primary election. *See* 52 U.S.C. § 20701.

Section 303 of the CRA provides, in pertinent part, "Any record or paper required by section 20701 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his 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 his representative..." 52 U.S.C. § 20703.

Pursuant to the foregoing authorities, including the CRA, the Attorney General is demanding an electronic copy of Georgia's complete and current VRL. The purpose of the request is to ascertain Georgia's compliance with the list maintenance requirements of the NVRA and HAVA.

When providing the electronic copy of the statewide VRL, Georgia must ensure that it contains *all fields*, which includes either 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 as required under the Help America Vote Act ("HAVA")² to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

To the extent there are privacy concerns, the voter registration list is subject to federal privacy protections. Section 304 of the CRA provides the answer:

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this chapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

HAVA specifies that the "last 4 digits of a social security number . . . shall not be considered a social security number for purposes of section 7 of the Privacy Act of 1974" (5 U.S.C. § 552a note); 52 U.S.C. § 21083(c). In addition, any prohibition of disclosure of a motor vehicle record contained in the Driver's License Protection Act, codified at 18 U.S.C. § 2721(b)(1), is exempted when the disclosure is for use by a government agency in carrying out the government agency's function to

² In charging the Attorney General with enforcement of the voter registration list requirements in HAVA and in the NVRA, Congress plainly intended that DOJ be able to conduct an independent review of each state's list. Any statewide prohibitions are clearly preempted by federal law.

accomplish its enforcement authority as the Justice Department is now doing. That said, all data received from you will be kept securely and treated consistently with the Privacy Act.

To that end, please provide the requested electronic Voter Registration List³ to the Justice Department by the date set for your delivery by our original letter, or by August 21, 2025, whichever is later.

The information and materials may be sent by encrypted email to voting.section@usdoj.gov or via the Department's secure file-sharing system, Justice Enterprise File Sharing ("JEFS"). Should further clarification be required, please contact Maureen Riordan at maureen.riordan2@usdoj.gov.

Regards,



Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division

cc: lake Evans
Director, Elections Division
Floyd West Tower
2 MLK Jr. Dr. S.E., Suite 802
Atlanta, GA 30334
bevans@sos.ga.gov

³ Containing *all fields*, which includes either 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 as required by HAVA.



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 14, 2025

Via Mail and Email

The Honorable Bernadette Matthews
Executive Director
State Board of Elections
2329 S. MacArthur Boulevard
Springfield, IL 62704-4503
bmatthews@elections.il.gov

Re: **Complete Illinois's Voter Registration List in All Fields**

Executive Director Matthews:

We have received Illinois's statewide voter registration list ("VRL"). However, as the Attorney General requested, the electronic copy of the statewide VRL 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 as required under the Help America Vote Act ("HAVA")¹ to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

We have requested Illinois' VRL to assess your state's compliance with the statewide VRL maintenance provisions of the National Voter Registration Act ("NVRA"), 52 U.S.C. § 20501, *et seq.* Our request is pursuant to the Attorney General's authority under Section 11 of the NVRA to bring enforcement actions. *See* 52 U.S.C. § 20501(a).

The Help America Vote Act ("HAVA"), 52 U.S.C. § 20501, *et seq.*, also provides authority for the Justice Department to seek the State's VRL via Section 401, which makes the Attorney General solely responsible for actions to enforce HAVA's computerized statewide Voter Registration List requirements. *See* 52 U.S.C. § 21111; *see also* *Republican Party of Ohio v. American Oversight*, 555 U.S. 5, 6

¹ In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that Justice Department be able to conduct an independent review of each state's list. Any statewide prohibitions are clearly preempted by federal law.

(2008) (*er c ria*) (finding there is no private right of action to enforce those requirements in HAVA).

In addition to those authorities, the Attorney General is also empowered by Congress to request records pursuant to Title III of the Civil Rights Act of 1960 (“CRA”), codified at 52 U.S.C. § 20701, *et seq.* Section 301 of the CRA requires state and local officials to retain and preserve records related to voter registration and other acts requisite to voting for any federal office for a period of 22 months after any federal general, special or primary election. *See* 52 U.S.C. § 20701.

Section 303 of the CRA provides, in pertinent part, “Any record or paper required by section 20701 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his 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 his representative...” 52 U.S.C. § 20703.

Pursuant to the foregoing authorities, including the CRA, the Attorney General is demanding an electronic copy of Illinois’s complete and current VRL. The purpose of the request is to ascertain Illinois’s compliance with the list maintenance requirements of the NVRA and HAVA.

When providing the electronic copy of the statewide VRL, Illinois must ensure that it contains *all fields*, which includes 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 as required under the Help America Vote Act (“HAVA”)² to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

To the extent there are privacy concerns, the voter registration list is subject to federal privacy protections. Section 304 of the CRA provides the answer:

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this chapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

Moreover, HAVA specifies that the “last 4 digits of a social security number . . . shall not be considered a social security number for purposes of section 7 of the Privacy Act of 1974” (5 U.S.C. § 552a note); 52 U.S.C. § 21083(c). In addition, any prohibition of disclosure of a motor vehicle record contained in the Driver’s License Protection Act, codified at 18 U.S.C. § 2721(b)(1), is exempted when the disclosure is for use by a government agency in carrying out the government agency’s function to accomplish its enforcement authority as the Justice Department is now doing.

² In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that Justice Department be able to conduct an independent review of each state’s list. Any statewide prohibitions are clearly preempted by federal law.

That said, all data received from you will be kept securely and treated consistently with the Privacy Act.

In charging the Attorney General with enforcement of the voter registration list requirements in HAVA and in the NVRA, Congress plainly intended that D J be able to conduct an independent review of each state's list. Any statewide prohibitions are preempted by federal law.

To that end, please provide the requested electronic Voter Registration List³ to the Justice Department within seven days or by August 21, 2025.

The information and materials may be sent by encrypted email to voting.section@usdoj.gov or via the Department's secure file-sharing system, Justice Enterprise File Sharing ("JEFS"). Should further clarification be required, please contact Maureen Riordan at maureen.riordan2@usdoj.gov.

Regards,



Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division

cc: Laura K. Donahue
Chair, State Board of Elections
2329 S. MacArthur Boulevard
Springfield, IL 62704-4503
webmaster@elections.il.gov

³ Containing *all fields*, which includes either 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 as required by HAVA.



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 14, 2025

Via Mail and Email

The Honorable William Francis Galvin
Secretary of the Commonwealth
1 Ashburton Place
Boston, MA 02108
william.galvin@sec.state.ma.us

Re: **Massachusetts's Voter Registration List Needs All Fields and Response to July 22 Letter**

Secretary Galvin:

This letter responds to correspondence from the Secretary's office dated August 7, 2025, in response to our letter of July 22, 2025, in which we made a request to the Commonwealth of Massachusetts for information regarding the Commonwealth's procedures for complying with the statewide voter registration list maintenance provisions of the National Voter Registration Act ("NVRA"), 52 U.S.C. § 20501, *et seq.* Your August 7, 2025, letter states that it will not be possible to provide the requested records for sixty days.

As the Attorney General requested, the electronic copy of the statewide Voter Registration List ("VRL") 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 as required under the Help America Vote Act ("HAVA")¹ to register individuals for federal elections. See [52 U.S.C. § 21083\(a\)\(5\)\(A\)\(i\)](#).

We have requested Massachusetts's VRL to assess your compliance with the list maintenance provisions of the NVRA, [52 U.S.C. § 20501](#), *et seq.* Our request is pursuant to the Attorney General's authority under Section 11 of the NVRA to bring enforcement actions. See [52 U.S.C. § 20501\(a\)](#).

¹ In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that Justice Department be able to conduct an independent review of each state's list. Any statewide prohibitions are clearly preempted by federal law.

HAVA, [52 U.S.C. § 20501](#), *et seq.*, also provides authority for the Justice Department to seek the State’s VRL via Section 401, which makes the Attorney General solely responsible for actions to enforce HAVA’s computerized statewide Voter Registration List requirements. *See* [52 U.S.C. § 21111](#); *see also* *Brunner v. Ohio Republican Party*, [555 U.S. 5, 6](#) (2008) (*per curiam*) (finding there is no private right of action to enforce those requirements in HAVA).

In addition to those authorities, the Attorney General is also empowered by Congress to request records pursuant to Title III of the Civil Rights Act of 1960 (“CRA”), codified at 52 U.S.C. § 20701, *et seq.* Section 301 of the CRA requires state and local officials to retain and preserve records related to voter registration and other acts requisite to voting for any federal office for a period of 22 months after any federal general, special or primary election. *See* [52 U.S.C. § 20701](#).

Section 303 of the CRA provides, in pertinent part, “Any record or paper required by section 20701 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his 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 his representative...” 52 U.S.C. § 20703.

Pursuant to the foregoing authorities, including the CRA, the Attorney General is demanding an electronic copy of Massachusetts’s complete and current VRL. The purpose of the request is to ascertain Massachusetts’s compliance with the list maintenance requirements of the NVRA and HAVA.

To the extent there are privacy concerns, the voter registration list is subject to federal privacy protections. Section 304 of the CRA provides:

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this chapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

Moreover, HAVA specifies that the “last 4 digits of a social security number . . . shall not be considered a social security number for purposes of section 7 of the Privacy Act of 1974” (5 U.S.C. § 552a note); [52 U.S.C. § 21083\(c\)](#). In addition, any prohibition of disclosure of a motor vehicle record contained in the Driver’s License Protection Act, codified at 18 U.S.C. § 2721(b)(1), is exempted when the disclosure is for use by a government agency in carrying out the government agency’s function to accomplish its enforcement authority as the Justice Department is now doing. That said, all data received from you will be kept securely and treated consistently with the Privacy Act.

To that end, please provide the requested electronic VRL with all fields to the Justice Department no later than August 21, 2025. We recognize, however, that other responses to our July 22 letter may take more time. As such, we are prepared to give the Secretary of the Commonwealth until Monday, September 15th, to respond to the other requests.

The information and materials may be sent by encrypted email to voting.section@usdoj.gov or via the Department's secure file-sharing system, Justice Enterprise File Sharing ("JEFS"). Should further clarification be required, please contact Maureen Riordan at maureen.riordan2@usdoj.gov.

Regards,

A handwritten signature in blue ink, appearing to read "Harmeet K. Dhillon". The signature is fluid and cursive, with a large initial 'H' and 'D'.

Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division

cc: Michelle Tassinari
First Deputy Secretary of the Commonwealth
Director & Legal Counsel, Elections Division
1 Ashburton Place, Room 1705
Boston, MA 02108
michelle.tassinari@sec.state.ma.us



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 14, 2025

Via Mail and Email

The Honorable Francisco V. Aguilar
Secretary of State
101 North Carson Street, Suite 3
Carson City, NV 89701
sosexec@sos.nv.gov; sosmail@sos.nv.gov

Re: **omplete e ada’s Voter Registration List with All Fields**

Secretary Aguilar:

We have received Nevada’s statewide voter registration list (“VRL”). However, as the Attorney General requested, the electronic copy of the statewide VRL 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 as required under the Help America Vote Act (“HAVA”)¹ to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

We have requested Nevada’s VRL to assess your state’s compliance with the statewide VRL maintenance provisions of the National Voter Registration Act (“NVRA”), 52 U.S.C. § 20501, *et seq.* Our request is pursuant to the Attorney General’s authority under Section 11 of the NVRA to bring enforcement actions. *See* 52 U.S.C. § 20501(a).

The Help America Vote Act (“HAVA”), 52 U.S.C. § 20501, *et seq.*, also provides authority for the Justice Department to seek the State’s VRL via Section 401, which makes the Attorney General solely responsible for actions to enforce HAVA’s computerized statewide Voter Registration List requirements. *See* 52 U.S.C. § 21111; *see also* *Runner v. Republican Party*, 555 U.S. 5, 6 (2008) (*Runner*) (finding there is no private right of action to enforce those requirements in HAVA).

¹ In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that Justice Department be able to conduct an independent review of each state’s list. Any statewide prohibitions are clearly preempted by federal law.

In addition to those authorities, the Attorney General is also empowered by Congress to request records pursuant to Title III of the Civil Rights Act of 1960 (“CRA”), codified at 52 U.S.C. § 20701, *et seq.* Section 301 of the CRA requires state and local officials to retain and preserve records related to voter registration and other acts requisite to voting for any federal office for a period of 22 months after any federal general, special or primary election. *See* 52 U.S.C. § 20701.

Section 303 of the CRA provides, in pertinent part, “Any record or paper required by section 20701 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his 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 his representative...” 52 U.S.C. § 20703.

Pursuant to the foregoing authorities, including the CRA, the Attorney General is demanding an electronic copy of Nevada’s complete and current VRL. The purpose of the request is to ascertain Nevada’s compliance with the list maintenance requirements of the NVRA and HAVA.

When providing the electronic copy of the statewide VRL, Nevada must ensure that it contains *all fields*, which includes 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 as required under the Help America Vote Act (“HAVA”)² to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

To the extent there are privacy concerns, the voter registration list is subject to federal privacy protections. Section 304 of the CRA provides the answer:

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this chapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

Moreover, HAVA specifies that the “last 4 digits of a social security number . . . shall not be considered a social security number for purposes of section 7 of the Privacy Act of 1974” (5 U.S.C. § 552a note); 52 U.S.C. § 21083(c). In addition, any prohibition of disclosure of a motor vehicle record contained in the Driver’s License Protection Act, codified at 18 U.S.C. § 2721(b)(1), is exempted when the disclosure is for use by a government agency in carrying out the government agency’s function to accomplish its enforcement authority as the Justice Department is now doing. That said, all data received from you will be kept securely and treated consistently with the Privacy Act.

² In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that Justice Department be able to conduct an independent review of each state’s list. Any statewide prohibitions are clearly preempted by federal law.

In charging the Attorney General with enforcement of the voter registration list requirements in HAVA and in the NVRA, Congress plainly intended that D J be able to conduct an independent review of each state's list. Any statewide prohibitions are preempted by federal law.

To that end, please provide the requested electronic Voter Registration List³ to the Justice Department within seven days or by August 21, 2025.

The information and materials may be sent by encrypted email to voting.section@usdoj.gov or via the Department's secure file-sharing system, Justice Enterprise File Sharing ("JEFS"). Should further clarification be required, please contact Maureen Riordan at maureen.riordan2@usdoj.gov.

Regards,



Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division

cc: Mark Wlaschin
Deputy Secretary for Elections
101 North Carson Street, Suite 3
Carson City, NV 89701
mwlaschin@sos.nv.gov

³ Containing *all fields*, which includes either 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 as required by HAVA.



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 14, 2025

Via Mail and Email

The Honorable Al Schmidt
Secretary of the Commonwealth
401 North Street, Rm 302
Harrisburg, PA 17120
al.schmidt@pa.gov; ra-voterreg@pa.gov

Re: complete ennsyl ania’s Voter Registration List it All Fields

Secretary Schmidt:

We understand that the time the Justice Department has provided your state to respond to the request for a statewide voter registration list (“VRL”) and other information has not reached its deadline.

Given responses from other states thus far, we want to clarify that the Justice Department’s request to provide an electronic copy of the statewide VRL should contain *all fields*, which means, your state’s VRL must include 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 as required under the Help America Vote Act (“HAVA”)¹ to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

We have requested Pennsylvania’s VRL to assess your state’s compliance with the statewide VRL maintenance provisions of the National Voter Registration Act (“NVRA”), 52 U.S.C. § 20501, *et seq.* ur request is pursuant to the Attorney General’s authority under Section 11 of the NVRA to bring enforcement actions. *See* 52 U.S.C. § 20501(a).

The Help America Vote Act (“HAVA”), 52 U.S.C. § 20501, *et seq.*, also provides authority for the Justice Department to seek the State’s VRL via Section 401, which makes the Attorney

¹ In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that D J be able to conduct an independent review of each state’s list. Any statewide prohibitions are clearly preempted by federal law.

General solely responsible for actions to enforce HAVA's computerized statewide voter registration list requirements. *See* 52 U.S.C. § 21111; *see also* *Orner v. Ohio Republican Party*, 555 U.S. 5, 6 (2008) (*Orner v. Ohio Republican Party*) (finding there is no private right of action to enforce those requirements in HAVA).

In addition to those authorities, the Attorney General is also empowered by Congress to request records pursuant to Title III of the Civil Rights Act of 1960 ("CRA"), codified at 52 U.S.C. § 20701, *et seq.* Section 301 of the CRA requires state and local officials to retain and preserve records related to voter registration and other acts requisite to voting for any federal office for a period of 22 months after any federal general, special or primary election. *See* 52 U.S.C. § 20701.

Section 303 of the CRA provides, in pertinent part, "Any record or paper required by section 20701 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his 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 his representative..." 52 U.S.C. § 20703.

Pursuant to the foregoing authorities, including the CRA, the Attorney General is demanding an electronic copy of Pennsylvania's complete and current VRL. The purpose of the request is to ascertain Pennsylvania's compliance with the list maintenance requirements of the NVRA and HAVA.

When providing the electronic copy of the statewide VRL, Pennsylvania must ensure that it contains *all fields*, which includes either 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 as required under the Help America Vote Act ("HAVA")² to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

To the extent there are privacy concerns, the voter registration list is subject to federal privacy protections. Section 304 of the CRA provides the answer:

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this chapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

HAVA specifies that the "last 4 digits of a social security number . . . shall not be considered a social security number for purposes of section 7 of the Privacy Act of 1974" (5 U.S.C. § 552a note); 52 U.S.C. § 21083(c). In addition, any prohibition of disclosure of a motor vehicle record contained in the Driver's License Protection Act, codified at 18 U.S.C. § 2721(b)(1), is exempted when the

² In charging the Attorney General with enforcement of the voter registration list requirements in HAVA and in the NVRA, Congress plainly intended that DOJ be able to conduct an independent review of each state's list. Any statewide prohibitions are clearly preempted by federal law.

disclosure is for use by a government agency in carrying out the government agency's function to accomplish its enforcement authority as the Justice Department is now doing. That said, all data received from you will be kept securely and treated consistently with the Privacy Act.

To that end, please provide the requested electronic Voter Registration List³ to the Justice Department by the date set for your delivery by our original letter, or by August 21, 2025, whichever is later.

The information and materials may be sent by encrypted email to voting.section@usdoj.gov or via the Department's secure file-sharing system, Justice Enterprise File Sharing ("JEFS"). Should further clarification be required, please contact Maureen Riordan at maureen.riordan2@usdoj.gov.

Regards,



Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division

cc: Jessica Mathis
Director, Bureau of Election Services and Notaries
401 North Street, Room 210
Harrisburg, PA 17120
jesmathis@pa.gov

³ Containing *all fields*, which includes either 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 as required by HAVA.

EXHIBIT C



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 D

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(WESTERN DIVISION - LOS ANGELES)

UNITED STATES OF AMERICA,)	CASE NO: 2:25-cv-09149-DOC-ADSx
)	
Plaintiff,)	CIVIL
)	
vs.)	Los Angeles, California
)	
SHIRLEY WEBER, ET AL,)	Thursday, December 4, 2025
)	(7:38 a.m. to 9:09 a.m.)
Defendants.)	(12:01 p.m. to 12:58 p.m.)
)	(2:00 p.m. to 2:31 p.m.)
)	(2:31 p.m. to 2:33 p.m.)

HEARING RE:

MOTION TO DISMISS [DKT.NO.67];

PLAINTIFF'S REQUEST FOR ORDER TO PRODUCE RECORDS
(52 USC 20701)
[DKT.NOS.87,88,89]

BEFORE THE HONORABLE DAVID O. CARTER,
UNITED STATES DISTRICT JUDGE

APPEARANCES: SEE PAGE 2

Court Reporter: Recorded; CourtSmart

Courtroom Deputy: Karlen Dubon

Transcribed by: Exceptional Reporting Services, Inc.
P.O. Box 8365
Corpus Christi, TX 78468
361 949-2988

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

APPEARANCES:

For Plaintiff:

**ERIC V. NEFF, ESQ.
U.S. Department of Justice
150 M St. NE, Suite 8-139
Washington, DC 20002
202-532-3628**

For Intervenors:

**GRAYCE S.P. ZELPHIN, ESQ.
American Civil Liberties
Union of Northern California
39 Drumm Street
San Francisco, CA 94111
530-515-8978**

**CHRISTOPHER D. DODGE, ESQ.
Elias Law Group
250 Massachusetts Ave. NW
Suite 400
Washington, DC 20001
202-987-4928**

For Robert Page:

**SUZANNE E. SHOAI, ESQ.
Orange County Counsel
P.O. Box 1379
Santa Ana, CA 92702
714-834-3300**

For Defendants:

**MALCOLM A. BRUDIGAM, ESQ.
Office of the Attorney General
1300 I Street
Suite 125
Sacramento, CA 95814
916-210-7873**

**ROBERT W. SETRAKIAN, ESQ.
California Department of Justice
300 S. Spring Street
Suite 1702
Los Angeles, CA 90013
213-269-6668**

1 Los Angeles, California; Thursday, December 4, 2025; 7:38 a.m.

2 (Call to Order)

3 THE COURT: -- Shirley Weber.

4 (Pause)

5 THE COURT: And, counsel, as you're seated, let me
6 take one more matter. Just remain seated for a moment.

7 (Pause)

8 THE COURT: All right. Thank you then. I think that
9 resolves the rest of the morning calendar. So first of all,
10 good morning.

11 MR. NEFF: Good morning, Your Honor.

12 THE COURT: This is the matter of United States v.
13 Shirley Weber. It's case number 25-09149. And, counsel, you
14 can just remain seated. You can pretend it's state court if
15 you want to, but make your appearances.

16 MR. NEFF: Eric Neff on behalf of the United States.
17 Good morning, Your Honor.

18 THE COURT: Thank you.

19 MR. BRUDIGAM: Deputy Attorney General Malcolm
20 Brudigam on behalf of defendants Secretary of State Shirley
21 Weber and the State of California.

22 THE COURT: Okay, thank you very much.

23 MR. SETRAKIAN: Deputy Attorney General Will
24 Setrakian on behalf of defendants State of California and
25 California Secretary of State Shirley Weber.

1 **THE COURT:** Thank you very much. I appreciate it.

2 **MR. DODGE:** Chris Dodge on behalf of Intervenors
3 NAACP and Siren.

4 **MS. ZELPHIN:** Grace Zelphin on behalf of Intervenors
5 League of Women Voters of California.

6 **THE COURT:** Is anybody here representing what I call
7 the County case?

8 **MS. SHOAI:** Good morning, Your Honor.

9 **THE COURT:** Come on up. What we're doing here may be
10 of interest to you. So we want your appearance.

11 **MS. SHOAI:** Thank you, Your Honor. Deputy County
12 Counsel --

13 **THE COURT:** No, no, wait, wait till we get a good
14 recording of you.

15 **MS. SHOAI:** Good morning, Your Honor. Deputy County
16 Counsel Suzanne Schoai on behalf of --

17 **THE COURT:** I see. Why don't you have a seat? Do
18 you have any other colleague with you today?

19 **MS. SHOAI:** No, Your Honor.

20 **THE COURT:** All right. So first, I'd like to address
21 plaintiff's motion for order to produce records pursuant to 52
22 U.S.C. 20701 that was filed on Monday, set for hearing
23 today. I appreciate the speed, but not at the expense of due
24 process. And although I've encouraged us to move forward as
25 quickly as possible concerning the substantive issues, this is

1 not the due process because there needs to be at least 28 days'
2 notice before a date for hearing under CD California Rule 6-1.

3 The plaintiff is seeking to reach the ultimate
4 question in this case regarding the production of records and
5 thousands of voters' lives will be impacted by this case. And
6 the Court will not be setting the matter on any legal -- I
7 don't want to say gamesmanship, but therefore, the motion for
8 order to produce records pursuant to 52 U.S.C. 20701 is
9 denied.

10 Now, you can once again follow the process and
11 procedure in terms of due process. We'll have time
12 potentially, but this doesn't supply the due process needed.

13 Second, I'd like to hear arguments if there are any
14 on two motions regarding amicus briefs. First, there was a
15 motion for leave to file an amicus brief brought by 16 states.
16 Those states are Arizona, Colorado, Delaware, Hawaii, Illinois,
17 Maine, Maryland, Michigan, Minnesota, New Jersey, New Mexico,
18 New York, Oregon, Rhode Island, Vermont, and Washington.

19 The second request was to file an amicus brief and it
20 was filed by the former secretaries of state and the proposed
21 amicus briefs are allegedly from a bipartisan group of state
22 secretaries for the states of Colorado, Connecticut, Minnesota,
23 Nebraska, Oregon, Pennsylvania, and Washington.

24 Does any party have a statement to make regarding
25 these amici briefs and any wisdom on your part that if I allow

1 these amici briefs, whether I should then extend for some
2 period of time the opportunity for additional briefs from
3 interested parties, because these are the parties that have
4 directly contacted the Court, but there may be other parties
5 that piecemeal choose to come in, and then I'm deciding that on
6 an almost ex-parte basis, case by case as they come to me,
7 unless you're flying out here for every single hearing for
8 every requested amici brief.

9 So I was thinking if I was going to allow these, that
10 I should throw this open for 7 days or 14 days for the amici
11 briefs to come in during the period of argument and try to sort
12 through whatever the Court's opinion would be and give you that
13 courtesy and simply extend it. But I'm looking for your wisdom
14 on that because you can anticipate if I'm getting these amici
15 requests now, I promise you, as soon as you leave the
16 courtroom, there's going to be another request. And I don't
17 want to do that ex parte without your wisdom on both parties'
18 parts.

19 So let's start with the first group. This motion for
20 leave to file an amici brief by 16 states, and one of my
21 concerns was whether this would become a bipartisan effort, for
22 instance, of Democrats and Republicans using the Court in a
23 sense, in a political sense, not necessarily a substantive
24 sense. But I noticed there are what I consider some swing
25 states, New Mexico certainly was during the last election,

1 those records to make sure we are doing our duty as the federal
2 government to make sure that these federal elections remain
3 free and fair.

4 And counsel simply has to rely on both
5 misrepresentations of the law and our position, stating our --
6 for example, that our whole case relies on Lynd. No. This
7 action relies on the Civil Rights Act of 1960 and its very
8 clear text, which is the one thing they don't want to talk
9 about because it's very clear.

10 Privacy concerns are first not a proper concern for
11 this motion to dismiss but even if they were, they're
12 unfounded. Privacy -- the United States is going to comply
13 with all federal laws. That includes the Federal Privacy Act.
14 The DOJ Civil Rights Division itself has a stated policy
15 available on a website as to how we will comply with the
16 Federal Privacy Act and have before.

17 **THE COURT:** Explain that to me.

18 **MR. NEFF:** Yes, sure.

19 So we publish a series of regulations. They're
20 called the SORNs that show how we tend to the data and make
21 sure everything is properly protected under, not just Federal
22 Privacy Act, but other obvious concerns when you're dealing
23 with large databases.

24 **THE COURT:** Is that part of my record?

25 **MR. NEFF:** Yes.

1 **THE COURT:** And what would I look at that? What
2 exhibit?

3 **MR. NEFF:** At our -- in our response to our motion to
4 dismiss and the supporting data for that, the attachments for
5 that.

6 However, I would state, that to any extent,
7 especially the state privacy-type acts would contradict the
8 Civil Rights Act, that the Civil Rights Act would rule.

9 The United States does this on a regular basis. We
10 have multiple states that don't even see this as a dispute,
11 that simply just -- in fact, on their own do this on a regular
12 basis, share the information with the federal government so
13 that we can run crosschecks to make sure that people are
14 properly on voter rolls.

15 **THE COURT:** What states are those that have shared
16 either their DMV registrations or the social security numbers
17 of voters?

18 **MR. NEFF:** Offhand, right now, off of memory I
19 believe the states are Kansas, Indiana -- there are four.

20 **THE COURT:** That's okay.

21 **MR. NEFF:** I'll also state the biggest one is -- so
22 we also have an MOU that we produce at the state request. Some
23 states request it, some don't. Some say, yes, you're entitled
24 to this data, here you go. And we have a whole data-sharing
25 setup ready. It's essentially the Box program, plus some

1 federal proprietary encryption technology to make sure that
2 this is as secure as it needs to be. And we -- so Texas just
3 told us today they're going to enter in the MOU and share us
4 the data in the next few days. We believe many more states are
5 going to follow just in the next few days but so we have four
6 states that have already sent us the data. No questions asked.
7 Probably another dozen or so states in the next week or so that
8 are just going to sign the MOU and share with us. This really
9 shouldn't be controversial. It's clearly stated as part of our
10 duty under HAVA and the Civil Rights Act is clear that this is
11 the mechanism in which we do it.

12 **THE COURT:** Do you think that those states with
13 attorney generals complying with your request would be
14 interested in filing an amicus just as other states who may be
15 opposed to your request are filing amicus? In other words,
16 what I want to do is make certain if we have states coming late
17 to the table but in compliance that we're looking at the
18 reasoning by all of the atty generals in the respective states.

19 And what I was worried about before, frankly, is if I
20 had red and blue states lining up when I started to look at the
21 amicus, I was particularly interested in the states bringing
22 that to me.

23 Now, I don't know how you define what I call -- well
24 those states that have voted for different -- in different
25 elections in different ways. Arizona, New Mexico, Michigan,

1 Minnesota, seem to be what I call those states that
2 traditionally doesn't go Democrat or Republican.

3 And then I looked down at the state secretaries for
4 the states and if you notice, there are three states out of
5 there on the amicus. Connecticut is in for the first time.
6 They are not part of the amicus for the 16 states that we
7 initially named but these are the state secretaries for the
8 states of and Connecticut is an addition, Nebraska is an
9 addition, Pennsylvania -- which has certainly been a swing
10 state.

11 So I was a little worried and that's why I sought
12 your wisdom about whether you all were going to stipulate to me
13 accepting this because I didn't know the weight if I was just
14 dealing with a party disagreement. And I'm not saying that
15 these swing states necessarily carry greater or less weight but
16 I want to be alert that if this is a partisan effort. And
17 certainly the country is divided so ...

18 **MR. NEFF:** I would be --

19 **THE COURT:** ... so I've got a stipulation that I'm
20 accepting all of these amicus briefs. I just want to pay you
21 the courtesy if other states are coming onboard, like Texas, et
22 cetera, that we give them a chance for those attorney generals
23 to get this to us but by the same token, I'm going to be
24 writing over the next couple weeks.

25 Is two weeks enough time for you?

1 **MR. NEFF:** We can inform the states that --

2 **THE COURT:** Okay.

3 **MR. NEFF:** -- a judge has invited them to file amicus
4 but --

5 **THE COURT:** Will you do so? In other words, for both
6 parties. Get it out to all the states that you can and I'll
7 docket this, et cetera. And there may even be disagreements
8 between different courts examining this matter and different
9 circuits.

10 **MR. NEFF:** I think the bigger picture is that the
11 states that are complying are likely not going to see this as
12 something that they need to delve issue.

13 **THE COURT:** But I just want to pay you the courtesy
14 in terms of due process. Okay.

15 **MR. NEFF:** Yes. And I would say that's because this
16 really shouldn't be a political issue. One side can make it a
17 political issue if they want to just simply in a single
18 position declare it that but it doesn't change the fact that
19 the Civil Rights Act of 1960, the text is quite clear and that
20 no one is in favor of faulty voter rolls.

21 **THE COURT:** We've also had for both parties we've had
22 a series of state rights issues in the federal court for years.
23 And different states have taken a perspective on what the
24 states' rights issues are. Some are much more state-right
25 oriented, others aren't. That's why I was interested in the

1 division. But since you've all stipulated, I'm accepting this
2 amicus at the present time. I just want to make sure you've
3 got the courtesy on both sides of any other parties coming
4 onboard so if we need an extra week we can take it, okay?

5 Okay. Won't you continue. I'm sorry.

6 **MR. NEFF:** Thank you, Your Honor.

7 The -- would emphasize that this data is necessary
8 for the United States to conduct its HAVA operation -- its HAVA
9 enforcement compliance and that is why that data is
10 specifically cited in the statute. It simply couldn't be
11 clearer that it needs to be the last four digits of a social
12 security number or the driver's license; otherwise, we are not
13 able to make a verified finding as to the various voter roll
14 registrations that might have problems. In fact, we sometimes
15 even have to follow up after that data is run. It's rare but
16 there's a reason that was put in the statute because it's
17 something like we can verify it from what I've talked to our
18 database analysts something like 99.999 percent of the time.
19 That's enough for us to be able to know if it's an actual
20 person that lives in that location and is who the voter
21 registration role says it is.

22 **(Pause)**

23 Again, with the caveat that we do not need to ever --
24 that we do not need to get to this. This is essentially an OSC
25 where we only need to state our purpose and then we are

1 entitled to the records. Also under a prompt order, according
2 to caselaw, a prompt order that this is essentially an OSC
3 hearing.

4 The facts of California itself are particularly
5 worrisome. Maybe the most worrisome state in the union.

6 The state is required to provide various data to the
7 Election Assistance Commission which is a nonpartisan
8 commission. The state -- the agency created by HAVA in order
9 to try and keep this as neutral as possible and California
10 doesn't provide the complete data. Their data doesn't have Los
11 Angeles County in it. It's one-fourth the state's population.
12 That on its own should cause concern countrywide that they've
13 not submitted that data. It would be irresponsible of the
14 United States to not come in at this point and say we need to
15 see your data to ensure fair and free elections.

16 All of the harms that opposing counsel have pointed
17 to are based on speculation, logical leaps and there is no
18 concrete evidence they can point to.

19 That being said, with the overarching point that this
20 is before the Court right now as essentially an order for an
21 order to show cause, dressed up as a complaint, and that you
22 have a dismissal that is essentially fighting that order to
23 show cause, dressed up as a motion to dismiss, I believe the
24 Court should act within what would be its lawful authority to
25 issue a prompt order that California needs to turn those

1 records over to us that we are entitled to.

2 **THE COURT:** How do you deal with the state provisions
3 concerning the DMV? In other words, the state is arguing to
4 the Court that that has a -- for want of a better word -- a
5 special category that is not subject to the Voting Rights Act
6 of 1960 or HAVA, and that they have a privacy interest in a
7 sense as well. What does the Court do with that?

8 **MR. NEFF:** Any state privacy interest would be
9 trumped by federal law. It would be trumped by both the
10 Federal Privacy Act, which we're complying with. It would be
11 trumped by HAVA, which is a -- I repeat -- a federal minimum
12 standards law for state compliance that specifically mentions
13 driver's license number or last four digits of social.

14 The state is required to produce and provide this
15 data under the statute. If they have some issue with the
16 driver's license; hypothetically, if a state just said we have
17 some real concerns about our driver's license, they comply with
18 the statute if they provide the last four of the social
19 security number.

20 Does the Court have other questions or concerns?

21 **THE COURT:** Just one moment. Let me look at a note
22 that I made.

23 **(Pause)**

24 The state represents that they have offered -- and I
25 think both in the Orange County case with the registrar -- and

1 it's represented today in the statewide case -- the names and
2 addresses. Has that offer in fact been made?

3 **MR. NEFF:** Has that offer --

4 **THE COURT:** Yes. To you.

5 **MR. NEFF:** Oh --

6 **THE COURT:** Not to you but to the government, the
7 DOJ.

8 **MR. NEFF:** California has taken the unique in the
9 nation position that they are -- that they -- we are permitted
10 to come and inspect it in their offices, that data; which, (a),
11 is not sufficient; (b), we argue is not an appropriate way of
12 providing it in today's day and age where it's actually more
13 secure to share this data electronically through our shared
14 file-sharing --

15 **THE COURT:** Kind of slow-walking you. Kind of slow
16 walking.

17 **MR. NEFF:** I think --

18 **THE COURT:** For want of a better term.

19 **MR. NEFF:** That is the United States' interpretation
20 of it but --

21 **THE COURT:** How about the voter participation and the
22 registration methods? Have those been offered to you? In
23 other words, that's been argued to me but behind the scenes I
24 don't have that record right now. Has that been offered to
25 you?

1 **MR. NEFF:** It is in the back-and-forth is in the
2 letters attached as exhibits in the filings, Your Honor;
3 however, the United States' position is that the responses have
4 been woefully inadequate.

5 **THE COURT:** Okay. So we've never gotten down to
6 really how that information would be exchanged. It's flowing
7 back and forth in terms of representations but as a practical
8 matter there's a big difference between a representation and
9 conveying the information to you.

10 **MR. NEFF:** Well actually in our letters we did lay
11 out to opposing counsel our file-sharing program, how it works,
12 that it is secure and we invite them to -- assuming they have a
13 change of heart, to use it.

14 **THE COURT:** About the registration status and the
15 contact information, has that been offered to you?

16 **MR. NEFF:** That, I'm not sure about. I'm not sure
17 what the scope of their offer is.

18 **THE COURT:** Okay.

19 **MR. NEFF:** I just know that it does not include the -
20 - for sure, does not include the driver's license number or the
21 last four of the social as required by the HAVA statute. And
22 in other states as well, that has always been the crux of the
23 dispute.

24 **THE COURT:** In their opening arguments they'd argued
25 that in the Benson case out of the Sixth Circuit, Bellows out

1 of the First and Long case out of the Fourth, that there's an
2 inconsistent and uniformed position taken by the government.
3 How do you respond to that?

4 **MR. NEFF:** That the -- there is no inconsistency in
5 position.

6 **THE COURT:** Explain that to me.

7 **MR. NEFF:** What there is is difference in posture of
8 those cases. It is a true statement to say that the United
9 States, as an agency, has yet to go to states to enforce the
10 minimum standards of the HAVA statute. One can argue whether
11 that was a wise or unwise decision but here we are 23 years
12 later and the federal government has yet to do it. It is
13 still, for certain, good law. The United States believes it is
14 a law that should be enforced and complied with. Therefore,
15 because of that history where this hasn't been done before, all
16 of those cases relate to private parties trying to in some way
17 get in.

18 The DOJ's position is that private parties do not
19 have a right of action under HAVA and therefore they should not
20 be allowed to go to states and say, I would like your driver's
21 license or social security number. However, there are states
22 around the country, including ones that are fighting us, that
23 interestingly, have been willing to turn over that data to a
24 private organization without the same protections as the United
25 States. That's been cited in our briefing, the ERIC

1 Organization.

2 So what I would say is all those cases are
3 inapplicable. It often requires selectively quoting them to
4 make it sound like in some way the United States government is
5 not entitled to it. No, the United States government is
6 uniquely mentioned in both the CRA and HAVA. And therefore
7 just because this is the first time the United States is coming
8 in and doing it, doesn't mean that it's not clearly what the
9 statute states.

10 **THE COURT:** For both parties, you mentioned that
11 California is one of the main outliers, for want of a better
12 word, from the DOJ and the executive branch's position. Is it
13 the position of the executive branch that there need not be any
14 stated purpose that there's an absolute right to obtain this
15 information per statute?

16 **MR. NEFF:** Statute requires we state a purpose. A
17 purpose.

18 **THE COURT:** And what is the purpose here?

19 **MR. NEFF:** The purpose is for, as stated in our
20 letters to them, for voter roll maintenance enforcement and
21 compliance.

22 **THE COURT:** And we stated in Orange County with a
23 limited county case involving Page. There, there were -- and I
24 keep 13 or 17 but 17, I believe, allegations. The most
25 notorious became the dog that voted twice.

1 Is that, out of 1.2 million voters, what's the basis,
2 for instance, of that kind of request because of course we're
3 always going to have error, including people who legitimately
4 die. So what's the threshold that this stated purpose has?
5 How should I interpret that?

6 **MR. NEFF:** Under the CRA there is no threshold.

7 **THE COURT:** Okay. Now, do you need to -- and thank
8 you. Do you need to make any calls? You're all by yourself,
9 you're doing -- there's nobody to consult with but do you need
10 to make any calls? Are you satisfied with your argument?

11 **MR. NEFF:** I appreciate the offer, Your Honor, but
12 no, we're satisfied.

13 **THE COURT:** Okay. There'll be a second round.

14 **MR. NEFF:** Yes.

15 **THE COURT:** So counsel, however you'd like to proceed
16 then. One of you has another obligation, I don't care which
17 order. You can take the intervenors first or the parties.

18 **(Pause)**

19 **MR. BRUDIGAM:** So there was a lot going on there,
20 Your Honor, and so I'm going to try to be thorough in making
21 sure I cover all of those points.

22 So I think the first thing I want to talk about is
23 this notion that the complaint is just an order to show cause.
24 And essentially what the federal government wants to do is take
25 the Court and sideline them in this dispute and say that the

1 Court has no room for any judicial review here. And that's
2 just not supported by the text of the statute.

3 There's nothing in the Civil Rights Act that creates
4 a special statutory procedure. The words "order to show cause"
5 are not in the statute at all and I'll just read you the text
6 right here.

7 It says that:

8 "The appropriate district court shall have
9 jurisdiction by appropriate process to compel the
10 production of such record or paper."

11 That's what it says, "By appropriate process." And
12 so that's up to the Court to decide what the appropriate
13 process is here.

14 And I'd also just point Your Honor to the fact that
15 the Federal Rules of Civil Procedure contemplate what rules
16 apply when you have a government investigative demand. I mean
17 Federal Rule of Civil Procedure 81(a)(5) specifically says:

18 "The Federal Rules of Civil Procedure apply to
19 proceedings governing demands for records by the U.S.
20 government."

21 And so this idea that some other procedure applies,
22 it's not supported by the text, it's not supported by the
23 Federal Rules of Civil Procedure. The only thing that supports
24 this purported procedure are these early 1960s' cases and like
25 we've said, the federal government, they pin their hopes on

1 this one Kennedy v. Lynd, Fifth Circuit case from 1962. That's
2 the one they're referring to which says that the Court
3 shouldn't have any role here.

4 But that case is obviously nonbinding on Your Honor
5 and it's really been overruled. I would point you to the
6 United States v. Powell case.

7 **THE COURT:** I'm sorry, what -- just a moment.

8 **MR. BRUDIGAM:** Sure.

9 **THE COURT:** All right. Please continue. I've got my
10 note.

11 **MR. BRUDIGAM:** So the Supreme Court in United States
12 v. Powell found that the Federal Rules of Civil Procedure, they
13 apply to a proceeding like this. And in that case it involved
14 an IRS document request statute which used the very same
15 language that we have here which is that the Court shall, by
16 appropriate process, compel relief under that statute. So even
17 if Your Honor found Kennedy v. Lynd persuasive, it's obviously
18 unbinding, that's been overruled. So just to be clear, the
19 Federal Rules of Civil Procedure govern this action.

20 **THE COURT:** Well, you've cited on both parties'
21 parts, different enactments by council, statutory provisions.
22 I think we can all agree that we want qualified voters to vote
23 without any chilling effect.

24 **MR. BRUDIGAM:** I agree.

25 **THE COURT:** Is there -- well I think we can all

1 stipulate to that.

2 **MR. BRUDIGAM:** We can.

3 **THE COURT:** And I'll use the word "qualified voters".

4 Is there a chilling effect in the request by the
5 government and if so, what is that chilling effect? How would
6 there allegedly be persons who may believe that the government
7 has no business in the sense of getting more information.

8 **MR. BRUDIGAM:** Sure I mean I think --

9 **THE COURT:** And behind this the concern of this court
10 eventually, besides the statutory following the law, is going
11 to be the impact of what we write and do. And this case will
12 probably be the first case that comes out that other circuits
13 look at. So with that noble goal in mind of having voter
14 participation, is there a chilling effect or not?

15 **MR. BRUDIGAM:** I think there's absolutely a chilling
16 effect here because --

17 **THE COURT:** And I need you to define that for me.

18 **MR. BRUDIGAM:** Sure.

19 **THE COURT:** And it may not be relevant to the opinion
20 but behind all of this, we need voters who are qualified to be
21 able to vote.

22 **MR. BRUDIGAM:** Right.

23 **THE COURT:** Now the ease of that could be differences
24 between different administrations and whether you have
25 different methodologies. And I know there's a huge controversy

1 about mail-in ballots and voter registration and drive-in, et
2 cetera, but when we're finally done with this, we want
3 qualified voters to vote. And if there's a chilling effect, or
4 this privacy right that we've somewhat skipped over, I want to
5 hear how you define that.

6 **MR. BRUDIGAM:** Sure. Your Honor, I think this action
7 should make the stomach of every American turn, knowing that
8 this executive branch is going in, state by state, collecting
9 and vacuuming up everybody's voter registration information.
10 It is on a scale that we have never seen before. Okay.

11 And what this is going to do --

12 **THE COURT:** It is their disparity argument. In other
13 words, remember when I started this conversation early on, and
14 I discussed the amicus briefs, I was particularly interested if
15 I was getting just red and blue states. That's why I was
16 looking to see if there were these swing states.

17 **MR. BRUDIGAM:** I mean I point Your Honor to --

18 **THE COURT:** Or is this a argument also that a
19 particular group of states are being examined versus other
20 states? Because here, the government has represented while
21 California from their perception might be an outlier, they've
22 also made inquiries of the let's say more, from their
23 standpoint, compliant states like Kansas and -- I forget which
24 one -- just a moment -- Indiana, and that Texas was coming
25 onboard.

1 **MR. BRUDIGAM:** Yeah. Well, what I would say is I
2 mean those aren't states that are complying, they're
3 voluntarily giving that information to the federal government.

4 **THE COURT:** But regardless, the government has made
5 an inquiry so if there's an argument that the government is
6 reaching out and being selective, if the state is voluntarily
7 complying that doesn't seem to me to be singling out
8 progressive states. And if you think that, then I need to hear
9 that and hear your reasoning behind that.

10 **MR. BRUDIGAM:** I'm not saying they're singling out
11 states.

12 **THE COURT:** Okay. Then we can pass that.

13 **MR. BRUDIGAM:** They're going after every state and
14 California is by no means --

15 **THE COURT:** So I'm not going to have a disparity
16 argument.

17 **MR. BRUDIGAM:** Right, right. I just mean in terms of
18 the position the secretary has taken, I mean the reason they
19 had to sue 14 different states is because nobody wants to turn
20 this data over. The representations that Counsel just gave
21 today, that's the first that I've heard of any state turning
22 over that information. So we are by no means an outlier in
23 taking this position.

24 **THE COURT:** Wait just a moment. For the government
25 or DOJ, how do we validate Kansas and Indiana? What validation

1 do I have about that?

2 **MR. NEFF:** I was actually looking that up right now,
3 Your Honor, because --

4 **THE COURT:** Well go ahead and look it up. You've got
5 lots of time.

6 **MR. NEFF:** And I --

7 **THE COURT:** By the way, I'm not holding you to it. I
8 know it's in good faith but I'd like to hear what states that
9 we have validation for turning this document over. And there
10 may be numerous states.

11 **MR. NEFF:** It's a good-faith representation here. I
12 am kind of a point --

13 **THE COURT:** Okay. Well now take away the good faith.
14 I accept that. Okay, I'm asking for proof now.

15 **MR. NEFF:** Okay. Wyoming, Kansas, Indiana and
16 Arkansas all complied voluntarily.

17 **THE COURT:** Okay. Just a moment.

18 **MR. NEFF:** Texas --

19 **THE COURT:** Kansas, Indiana, Wyoming and Arkansas ...

20 **MR. NEFF:** ... have already complied ...

21 **THE COURT:** ... voluntarily.

22 **MR. NEFF:** ... voluntarily.

23 **THE COURT:** Okay. Texas?

24 **MR. NEFF:** Texas, Virginia, Utah, Tennessee, South
25 Dakota --

1 **THE COURT:** Just a moment.

2 **MR. NEFF:** Oh it's gonna go long, yeah. South
3 Carolina, Nebraska, Montana, Mississippi, Missouri and Alabama,
4 all fall into the list of they have expressed with us a
5 willingness to comply based on the represented MOU that we have
6 sent them. And so we expect full --

7 **THE COURT:** Now apparently Nebraska can't make up its
8 mind because of the proposed amici briefed to the Court, they
9 have the former state secretaries of state for Colorado,
10 Connecticut, Minnesota and guess what? Nebraska.

11 **MR. NEFF:** Well those are former. And furthermore,
12 just because some states are representing certain things in
13 court, there are still discussions going on now that this MOU
14 we have is fully blessed. There are the -- I don't think it's
15 safe at this point to go beyond those states but --

16 **THE COURT:** Then that's fine.

17 **MR. NEFF:** -- that's a fair representation of the
18 state of discussions as of today.

19 **THE COURT:** And Counsel, back to you.

20 **MR. BRUDIGAM:** Sure. And yeah, so all I heard there
21 was we've heard a willingness. It doesn't sound like those
22 states have actually turned over any data, just to be clear.

23 So I want to talk a little bit about --

24 **THE COURT:** No, I think he said that four states have
25 actually. Kansas --

1 **MR. BRUDIGAM:** Four states have actually turned over
2 but the broader list --

3 **THE COURT:** -- Indiana, Wyoming and Arkansas.

4 **MR. BRUDIGAM:** Right.

5 **THE COURT:** The others were a purported willingness.

6 **MR. BRUDIGAM:** Right.

7 So Your Honor, the federal government is really
8 leaning hard into the text of these statutes and they say that
9 we don't want to talk about the text but that's just absolutely
10 not true. And I want to just start with the Civil Rights Act
11 of 1960.

12 There is a very clear statutory limitation in that
13 provision and it's in Section 20703. And it says that the
14 attorney general's demand shall contain a statement of the
15 basis and the purpose therefore. DOJ has not satisfied this
16 requirement and so their demand is invalid plainly under the
17 statutory text.

18 **THE COURT:** So the plain representation by the
19 government is too broad; and that is, they want to stop voter
20 fraud.

21 **MR. BRUDIGAM:** Well, so they've mentioned a couple of
22 things. It keeps changing so I want to unpack this a little
23 bit.

24 So they said that the purpose is free and fair
25 elections, clean voter rolls. Then he said up here that it's

1 for enforcing HAVA. So these are multiple different bases.
2 And also it's different than the -- or than the purpose that
3 was originally articulated in the letters to the secretary.

4 The original request said that it was -- they were
5 seeking it for NVRA voter list -- list maintenance compliance.
6 So the reason and rationale keeps shifting and changing. And
7 that's a problem, not just because it's suspicious, it's a
8 problem because, again, the text says, "The demand shall
9 contain a statement of the basis and the purpose therefore.
10 The text use of the article." 'The,' twice, in front of the
11 basis and the purpose indicates that there is only one basis
12 and one purpose.

13 And the federal government has explicitly rejected
14 this plain text reading. They said it up here that they just
15 need to give you any old basis and then the demand is good.

16 **THE COURT:** That's my question also to both of you;
17 and that is, does the executive branch need to state a purpose?
18 Your argument is that they do.

19 **MR. BRUDIGAM:** They do.

20 **THE COURT:** Counsel for DOJ puts that in broad terms.

21 **MR. BRUDIGAM:** Right. Well but again, it's not just
22 a purpose, it's -- or not just the purpose, it's also the
23 basis.

24 **THE COURT:** Okay.

25 **MR. BRUDIGAM:** And they have not alleged any basis

1 anywhere in their action.

2 Now, I also want to talk about -- and just -- you
3 know this -- I'm sorry. I want to talk a little bit more about
4 HAVA, which is the law that apparently now that's the main
5 method of enforcement we're now learning today, that that's
6 what they want to enforce and they specifically reference the
7 requirement under HAVA that states collect social security
8 numbers and driver's license numbers. Well let's look to the
9 text of HAVA. What does it say?

10 "The state shall determine whether the information
11 provided by an individual is sufficient to meet the
12 requirements of this subparagraph in accordance with
13 state law."

14 And that is -- when it says "this subparagraph," it's
15 referring directly to the requirement that states collect that
16 information when processing voter registration applications.
17 So there is nothing for the federal government to enforce here.
18 This is solely the state's domain.

19 And as I said in my original motion, another
20 provision of HAVA explicitly delegates discretion of
21 implementation of HAVA to the states. So again, we're not
22 afraid of the text in this case, we think it strongly supports
23 our position. And so I also want to talk about what this data
24 could be used for.

25 So we've heard a lot of different reasons. I just

1 explained why it's not relevant for HAVA. I want to also talk
2 about why it's not relevant for List Maintenance under the
3 NVRA.

4 So the legal standard under the NVRA requires states
5 to conduct a general program that makes a reasonable effort.
6 So the Sixth Circuit held this year in that Benson case that
7 this just means a serious attempt, a rational, sensible
8 approach. It need not be perfect or optimal. And so under
9 this standard, getting line-by-line voter information of their
10 social security numbers and driver's license numbers, that's
11 entirely unrelated to whether a general program exists or
12 whether the state is making a reasonable effort. And so,
13 again, at every turn, the supposed reason why they need this
14 information, it just doesn't add up.

15 And then finally, I want to talk about they claimed,
16 as they did in their brief, that California has, quote, "the
17 most worrisome voter registration data in the nation." That's
18 just absolutely wrong, okay? That's an assertion in a brief
19 without any support.

20 And they also incorrectly say that in submitting data
21 to the Election Administration Commission in response to the
22 EACs survey, this is an election administration survey, they
23 said the LA County didn't submit any data. That's not true.
24 That's simply not true. You can go to the survey and look at
25 the data that LA submitted and you can look at our explanation

1 to DOJ in our letters in advance (inaudible) litigation
2 explaining the questions they had about that survey. So to the
3 extent that they want to rely on EACs as some after-the-fact
4 rationalization for this demand, it just doesn't make sense.
5 It doesn't add up.

6 So those are the main --

7 **THE COURT:** Were there inconsistent or consistent
8 offers if you're aware of the Page case, as well as this case.
9 In other words, when this started in Orange County, originally
10 counsel was here, there's a representation about the registrar
11 there making the same or similar representations about what
12 they were willing to share with DOJ but I've never compared the
13 two. And I don't know what the state's position is because
14 DOJ's argument might be, we're getting inconsistent data. In
15 other words, even when we're sharing, with the different
16 entities promising that they'll share some amount of this data,
17 the different counties are supplying this in different ways.

18 **MR. BRUDIGAM:** Sure. So I won't speak too much about
19 that case but I would say that case is different and there
20 isn't a problem of inconsistent data sharing because in the
21 state case, they're saying, give us the whole list. We want
22 every voter.

23 In Orange County, they said, we want a list of just
24 the individuals that have been removed from your list because
25 of non-citizenship, people who renounced or for whatever

1 reason.

2 **THE COURT:** So this is much broader from your
3 perspective in terms of protection, privacy, HAVA.

4 **MR. BRUDIGAM:** Yeah. It's not an issue of can they
5 be reconciled.

6 So I do want to just back up again and just zoom out
7 on the big picture here in this case.

8 You know, as we talked about -- my colleague talked
9 about, in his motion, that the states really have the primary
10 role in administering elections and the voter registration
11 process. The Constitution makes that quite clear in the
12 elections clause. And it makes sense to prioritize the state
13 in this process because they're the ones that are closer to the
14 voters, more accountable to the voters. And so this is an
15 arrangement that it depends on the principle of subsidiarity
16 where a decision should be made at the local level. And here,
17 we don't -- there's no place for the federal government to come
18 in and start demanding these records under that constitutional
19 framework.

20 And not only are the states the default entity
21 running elections but it's only Congress that can make or alter
22 those rules. Here, we have the executive branch in court
23 trying to get this information. The Constitution says nothing
24 about the executive branch having any role in federal
25 elections.

1 And I would just say that this is not a unique
2 position by this administration. The president has been
3 meddling in state election law since he came into office. And
4 I would point Your Honor to a case in the District of
5 Massachusetts, California v. Trump, where the executive was
6 doing something sort of similar where they were going in under
7 the guise of federal law and trying to change the way states
8 administer and conduct elections and that was pursuant to an
9 executive order the president issued. And so here, we're
10 having another situation where the federal government is coming
11 in under the guise of inapplicable federal laws and trying to
12 interfere with the state's role in elections. And so I'd just
13 say against that backdrop, it's important to keep that in mind;
14 but even if, you know, considering all that, if you'd just go
15 back to the text of these statutes, the federal government is
16 not entitled to this information under those laws.

17 And so at this point I want to turn it over to my
18 colleague, Will Setrakian, to just provide some rebuttal on the
19 federal privacy laws issue.

20 **THE COURT:** Thank you. And once again, would you
21 state your name because we're on CourtSmart.

22 **MR. SETRAKIAN:** Good afternoon, Your Honor. Will
23 Setrakian for defendants, The State of California and
24 California Secretary of State Shirley Weber. Just four quick
25 points on the federal privacy statute.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSAN BEALS, in her Official Capacity as
Commissioner of the Virginia Department of
Elections,

Defendant.

No. 3:26-cv-00042
(Hon. Roderick C. Young)

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Civil Procedure 7.1, Proposed Intervenor Common Cause certifies that it has no parent company and that no individual or publicly-held company has a 10% or greater ownership interest in Common Cause's stock. Proposed Intervenor Katherine Ellena is a natural person.

Dated: January 30, 2026

Respectfully submitted,

/s/ Davin Rosborough

Ari J. Savitzky*
Davin Rosborough (Va. Bar No. 85935)
Sophia Lin Lakin*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
Tel.: (212) 549-2500
Facsimile: (212) 549-2539
asavitzky@aclu.org
drosborough@aclu.org
slakin@aclu.org

Patricia J. Yan*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15th Street NW
Washington, DC 20005
Tel.: (202) 457-0800
pyan@aclu.org

Counsel for Common Cause and Katherine Ellena

** application for admission pro hac vice forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on January 30, a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record who have appeared and by email on counsel for the United States.

/s/ Davin Rosborough