IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. BRAD RAFFENSPERGER, in his official capacity as Secretary of State for the State of Georgia, Defendant.	No. 1:26-cv-485-ELR

BRIEF IN SUPPORT OF MOTION TO DISMISS OF INTERVENOR-DEFENDANTS COMMON CAUSE AND ROSARIO PALACIOS

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INTRODUCTION

In this action, as in dozens of others filed across the country, the United States seeks to compel the disclosure of voters' sensitive personal data to which it is not entitled, using civil rights laws as a pretext. This effort fails as a matter of law, because the Complaint does not plausibly allege that the United States has provided the statutorily required basis and purpose underlying its request for the data or that production of sensitive voter information is necessary.

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*. The purpose of these statutes is to ensure that all eligible Americans—especially racial minorities and voters with disabilities—can participate in free, fair, and secure elections. As DOJ itself has explained, 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., Civ. Rts. 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 federal government's demand for Georgia's unredacted voter file—which contains sensitive personal information including driver's license numbers and Social Security numbers from millions of Georgians—undermines the CRA's core purposes by *decreasing* access to the franchise and is contrary to law. Releasing voter records without redaction and for purposes far afield from protecting access to the ballot would deter voter participation and undermine the right to vote. This is especially true here, where the United States' *actual* reason for the data demand—which it never disclosed in its request, but which has been widely reported—is to create an unauthorized and unlawful national voter database to illegally target and challenge voters.

The Complaint does not adequately plead that the United States has met the requirements of the CRA, which mandates the government fully and accurately set forth "the basis and the purpose" for its data request, 52 U.S.C. § 20703. District courts in California and Oregon recently reached this exact conclusion with respect to materially-identical complaints seeking those states' complete voter files, dismissing the United States' claims without leave to replead. *See United States v. Weber*, No. 2:25-CV-9149-DOC-ADS, 2026 WL 118807 (C.D. Cal. Jan. 15, 2026); *United States v. Oregon*, No. 6:25-cv-1666-MTK, 2026 WL 318402 (D. Or. Feb. 5, 2026); *see also* Opinion, *United States v. Benson*, No. 1:25-cv-1148-HYJ-PJG (E.D.

Mich. Feb. 10, 2026), Dkt. No. 67 (dismissing CRA claims on other grounds). This Court should do the same.

BACKGROUND

I. The United States seeks to force the disclosure of voters' sensitive voter data.

Beginning in May 2025, the 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 Feb. 11, 2026), https://perma.cc/2XPG-AMSR.

On August 7, 2025, the DOJ sent a letter to the Georgia Secretary of State's Office requesting the statewide voter registration list within fourteen days, claiming it needed the list "for purposes of enforcing the NVRA and [HAVA]." Ex. 2, Mot. to Intervene, Letter from Michael E. Gates to Sec'y of State Brad Raffensperger dated Aug. 7, 2025, at 2, Dkt. No. 6-3 ("August 7 Letter"). On August 14, the DOJ sent a second letter, clarifying its demand—the requested list "should contain *all fields*" including full name, date of birth, residential address, driver's license number, and the last four digits of the registrant's Social Security number. Ex. 3, Mot. to Intervene, Letter from Harmeet K. Dhillon to Sec'y of State Brad Raffensperger dated Aug. 14, 2025, at 6, Dkt. No. 6-4 ("August 14 Letter")

(emphasis in original). This letter stated—without any explanation or authority—that because the DOJ has enforcement power under the NVRA and HAVA, it had the power to "conduct an independent review of each state's [voter] list," and further that "[a]ny statewide prohibitions"—presumably on releasing sensitive information—"are clearly preempted by federal law." *Id.* at 7 n.2. On December 8, 2025, the Secretary of State's Office provided Georgia's complete list of registered voters to the DOJ. *See* Ex. 4, Mot. to Intervene, Letter from Charlene S. McGowan to Harmeet K. Dhillon dated Dec. 8, 2025, at 13, Dkt. No. 6-5 ("Dec. 8 Letter"). In accordance with state law prohibiting the disclosure of sensitive voter information, that list did not include voters' full date of birth, driver's license number, or Social Security number. *Id.* (citing O.C.G.A. § 21-2-225(b)). In response, the United States brought this lawsuit, one of at least twenty-five similar suits in states across the country.[1]

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[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* (Jan. 6, 2026), https://perma.cc/6QP2-8ZXC; Press Release, U.S. Dep't of Just., *Justice Department Sues Four States for Failure to Produce Voter Rolls* (Dec. 18, 2025), https://perma.cc/HHJ7-JWQQ; Press Release, U.S. Dep't of Just., *Justice Department Sues Four Additional States and One Locality for Failure to Comply with Federal Elections Laws* (Dec. 12, 2025), https://perma.cc/TQ5T-FB2A; Press Release, U.S. Dep't of Just., *Justice Department Sues Six Additional States for Failure to Provide Voter Registration Rolls* (Dec. 2, 2025), https://perma.cc/F5MD-NWHD; Press Release, U.S. Dep't of Just., *Justice Department Sues Six States for Failure to Provide Voter Registration Rolls* (Sept. 25, 2025), https://perma.cc/7J99-WGBA; Press Release, U.S. Dep't of Just., *Justice Department Sues Oregon and Maine for Failure to Provide Voter Registration Rolls* (Sept. 16, 2025), https://perma.cc/M69P-YCVC. The United States' first suit seeking Georgia's voter registration file was dismissed because of improper venue. *See United States v. Raffensperger*, No. 5:25-cv-548-CAR, 2026 WL 184233 (M.D. Ga. Jan. 23, 2026).

II. The United States seeks to unlawfully construct a national voter database with the data.

As documented in extensive public reporting, DOJ's requests for private, sensitive voter data from Georgia 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—in short, as part of efforts to nationalize elections.

According to this reporting, federal employees "have been clear that they are interested in a central, federal database of voter information." Devlin Barrett & Nick Corasaniti, *Trump Administration Quietly Seeks to Build National Voter Roll*, N.Y. TIMES, Sept. 9, 2025, https://www.nytimes.com/2025/09/09/us/politics/trump-voter-registration-data.html. DOJ is coordinating these novel efforts with the federal Department of Homeland Security ("DHS"), according to reported statements from DOJ and DHS. *Id.*[2] One article extensively quoted a lawyer who recently left DOJ's Civil Rights Division, describing the Administration's aims in these cases:

> We were tasked with obtaining states' voter rolls, by suing them if necessary. Leadership said they had a DOGE person who could go through all the data and compare it to the Department of Homeland

[2] *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.

> 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. Indeed, publicly-disclosed documents have confirmed that DOJ has 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.[3] 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 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.[4]

According to additional public reporting, these efforts are being conducted with the involvement of self-proclaimed election integrity advocates within and

[3] *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://perma.cc/X3Q6-AFJU .

[4] December 5, 2025 Post by @AAGDhillon, https://x.com/AAGDhillon/status/1997003629442519114; 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://perma.cc/6PY2-3F3D .

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."[5] 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 challenge registered voters.[6]

A recent federal court filing by DOJ further corroborates how United States officials have been seeking to use voter data in conjunction with data-matching and aggregation techniques, with these outside "election integrity" advocates. As

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[5] *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. 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; 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.

[6] *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://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 ("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.").

detailed in the filing, which was made on behalf of the U.S. Social Security Administration (SSA):

> SSA determined in its recent review that in 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. v. Soc. Sec. Admin.*, No. 25-cv-596, 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 third-party server, in a "manner [that] is outside SSA's security protocols." Notice of Corrections to the Record, *supra*, at 6.

The current administration has made clear the purpose of these efforts. This month, President Trump announced his desire to "nationalize" elections in certain

states: "The Republicans should say, 'We want to take over,'" he said. "We should take over the voting, the voting in at least many—15 places. The Republicans ought to nationalize the voting." Reid Epstein & Nick Corasaniti, *Trump, in an Escalation, Calls for Republicans to 'Nationalize' Elections*, N.Y. TIMES, Feb. 2, 2026, https://www.nytimes.com/2026/02/02/us/politics/trump-nationalize-elections.html.

III. 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 states as part of its efforts to "nationalize" elections, to order the disenfranchisement of voters, and potentially to contest the results of elections. In connection with its requests for states' voter data, the United States has begun asking states to execute a memorandum of understanding describing how the data will be used. *See* Ex. 1, U.S. Dep't of Just., Civ. Div., Confidential Mem. of Understanding("MOU").[7] 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,

[7] This Court may take judicial notice of the MOU as a judicial document produced by the DOJ. *See Passantino v. United States*, No. 4:23-cv-300-ELR, 2025 WL 4056751, at *3 (N.D. Ga. Jan. 22, 2025); *United States ex rel. Riner v. Community Primary Care of Ga., LLC*, No. 1:19-cv-4316-MLB, 2023 WL 2563224, at *8 n.8 (N.D. Ga. Mar. 17, 2023).

depriving them of the franchise.

The NVRA and HAVA give states the responsibility of conducting a "reasonable effort" to maintain voter lists and remove 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 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. *Id.* 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.[8]

In short, extensive public reporting, court filings, and DOJ officials' statements and admissions indicate that the United States's aim in seeking sensitive voter data is to turn states' voter rolls into a tool for unlawfully and improperly mass-challenging voters and interfering with the states' democratic processes.

And recent events have further highlighted the 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.[9] Like Georgia, Minnesota has been sued by the federal

[8] *See also* 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/.

[9] *Read Bondi's Letter to Minnesota's Governor*, N.Y. TIMES (Jan. 24, 2026), https://www.nytimes.com/interactive/2026/01/24/us/pam-bondi-walz-doc.html ("Bondi Letter"); *see also* Order, *Tincher v. Noem*, No. 25 Civ. 4669 (D. Minn. Jan. 16, 2026), Dkt. No. 85

government seeking access to its unredacted voter rolls. *See* Complaint, *United States v. Simon*, No. 25-cv-03761 (D. Minn. Sept. 25, 2025), Dkt No. 1. The letter sets out three actions that the federal government wants Minnesota to take to "restore the rule of law, support ICE officers, and bring an end to the chaos," 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." Bondi Letter at 2–3.

LEGAL STANDARD

A court must dismiss a complaint if, accepting all well-pleaded factual allegations as true, it does not "state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). A court need not accept a complaint's legal conclusions. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Nor can "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements," survive a motion to dismiss. *Id*. at 678–79. "When plaintiffs have not nudged their claims across the line from conceivable to plausible, their complaint must be dismissed." *Am. Dental Ass'n v. Cigna Corp.*, 605 F.3d 1283, 1289 (11th Cir. 2010) (internal quotation marks omitted). In assessing a complaint, courts can consider "documents incorporated into the complaint by reference, and matters of which a

(granting injunction against certain DHS practices towards the civilian population of Minneapolis-St. Paul in connection with purported immigration enforcement operations there).

court may take judicial notice." *Baker v. City of Madison, Ala.*, 67 F.4th 1268, 1276 (11th Cir. 2023) (quoting *Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 322 (2007)).

ARGUMENT

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

The Complaint fails to adequately plead a claim for relief under the CRA for at least two distinct reasons. *First*, the United States fails to plausibly establish that it has offered the required statement of "the basis and the purpose" of its sweeping demand for Georgia's full and unredacted state voter registration list, giving insufficient and pretextual explanations. *Second*, the United States does not make any showing that turning over *unredacted* records, replete with private voter information, is required under the CRA. Instead, producing this data would run

directly contrary to the CRA, which exists to protect the right to vote. The privacy and constitutional rights of Georgia voters are paramount and invoking the CRA to invade those rights is a distortion of what the CRA was created to do.

I. The United States' demand fails to meet the CRA's requirements.

Title III of the CRA sets out retention requirements regarding federal election records: Section 301 requires 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).

Contemporaneous case law immediately following Title III's enactment shows that the required "basis" and "purpose" are distinct concepts. *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 an explanation of why the Attorney General believes there is a violation of federal civil rights law. *See Lynd*, 306 F.2d at 229 n.6; *Oregon*, 2026 WL 318402, at *9 (holding the basis prong requires "a factual basis for investigating a violation of a federal statute"); *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."). The "purpose" is an explanation of how the requested records would help determine if there is a violation. *See Lynd*, 306 F.2d at 229 n.6; *Oregon*, 2026 WL 318402, at *11 ("[T]he 'purpose' required in a demand for records under Title III must relate to a purpose of investigating violations of individuals' voting rights.").

The Complaint makes clear that the United States has failed to provide "a statement of the basis and the purpose" needed to support disclosure of the unredacted voter file. *Id*. It offers only the conclusory allegation: "The written demand 'contain[ed] a statement of the basis and the purpose therefor.'" Compl. ¶ 27 (citation omitted). But neither the Complaint nor the August 14 Letter that invoked the CRA supply a "basis" for why the United States believes Georgia's list maintenance procedures might violate the NVRA or HAVA. *Id.* ¶¶ 9, 19–25; August 14 Letter. These documents do not provide any evidence of anomalies or even suggest anything amiss with Georgia's list maintenance. *See id.* Far from

"specific, articulable facts pointing to the violation of federal law," *Weber*, 2026 WL 118807, at *9, they offer only the legal conclusion that the CRA's requirements were satisfied—which is not enough to survive a motion to dismiss.

Even if the United States had provided a proper "basis" for its demand—and it did not—it fails to explain any connection between its purported "purpose" and the request for the full and unredacted voter file. The Complaint (and the August 14 Letter) do not explain why unredacted voter files are necessary to determine whether Georgia has "conduct[ed] a general program that makes a reasonable effort to remove the names of ineligible voters" by virtue of "death" or "a change in the residence of the registrant." *Id.* ¶ 12 (citing 52 U.S.C. § 20507). The NVRA and HAVA both leave the mechanisms for conducting list maintenance within a state's discretion. *See* 52 U.S.C. § 20507(a)(4), (c)(1); *id*. § 21083(a)(2)(A); *id*. § 21085. The procedures carried out by a state or locality establish its compliance; the unredacted voter file does not. Even if the United States identified voters who had moved or died on Georgia's voter list at a single point in time, that would not amount to Georgia failing to comply with the "reasonable effort" required by the NVRA or HAVA. *See, e.g.*, *Pub. Int. Legal Found. v. Benson*, 136 F.4th 613, 624–27 (6th Cir. 2025) (describing a "reasonable effort" as "a serious attempt that is rational and sensible").

The basis and purpose 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. The statutory requirement is not perfunctory; it requires a specific statement as to the reason for requesting the information and how that information will aid in the investigatory analysis. *See Oregon*, 2026 WL 318402, at *9 ("If *any* purpose—regardless of its relationship to the purposes of the statute itself would suffice, then the requirement of stating the demand's purpose would serve no function."). In the context of administrative subpoenas, and specifically in assessing an analogous power by which federal agencies obtain records in service of investigations, courts have found that the test of judicial enforcement of such subpoenas includes an evaluation of whether the investigation is "conducted pursuant to a legitimate purpose," *United States v. Powell*, 379 U.S. 48, 57 (1964), and that such subpoenas should not be "overly broad" so as to constitute "a fishing expedition," *Smith v. Pefanis*, 2008 WL 11333335, at *3 (N.D. Ga. Oct. 30, 2008) (internal quotation marks omitted). Such purpose requirements ensure that the information sought is relevant to the inquiry and not unduly burdensome. *See, e.g.*, *F.D.I.C. v. Wentz*, 55 F.3d 905, 908 (3d Cir. 1995) (reciting requirements for investigation via administrative subpoena). So too with the CRA: the basis and purpose requirement 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. *Weber*,

2026 WL 118807, at *9.

As such, even if some other voting records or some portion of the voter file were necessary to investigate Georgia's NVRA list maintenance compliance, the United States has not provided any justification for why the full unredacted voter file is necessary. For decades, DOJ has neither sought nor required a full, unredacted voter file in its NVRA compliance investigations. *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). The United States' failure to articulate the basis and the purpose for its demand is fatal to its request.

The United States' statement is not just insufficient as a matter of law; it is also pretextual. Section 303 requires a statement of "the basis and the purpose" of a records request, and by twice using the definite article, the statute requires not just *a* basis or purpose among many, but *the actual* basis and purpose underlying the request. *See Niz-Chavez v. Garland*, 593 U.S. 155, 165–66 (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 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 forms of data-matching and to use this tool to identify supposedly ineligible voters and then challenge their right to vote. *See supra* 3-12 & nn.2-9. As *Weber* characterized it, considering the same robust set of public reporting and documents presented here, "[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; *accord Oregon*, 2026 WL 318402, at *11, *13.

Such a database would be unlawful in multiple ways. The creation of any 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).

Consider also the MOU that the United States has recently pushed a number of states to sign in connection with its requests for statewide voter files. *See supra* 9–11. The NVRA and HAVA require a state to conduct a "reasonable effort" to remove ineligible voters from the rolls, 52 U.S.C. §§ 20507(a)(4), 21083(a)(4)(A), and the NVRA includes safeguards to protect voters from erroneous removal. The government's proposed MOU indicates multiple contemplated violations of those statutory requirements. First, it seeks to place authority to identify supposed ineligible voters in the hands of the federal government, contrary to statutory text, 52 U.S.C. § 21085 (leaving methods of complying with HAVA "to the discretion of the State"). MOU at 2, 5. Second, the MOU's substantive terms seek to compel states to remove supposedly ineligible voters "within forty-five (45) days," *id.* at 5, in a way that would violate multiple protections of the NVRA, 52 U.S.C. § 20507.

Finally, there is 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* Bondi Letter at 2-3. Attorney General Bondi's letter, which by its terms connects 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. *See Oregon*, 2026 WL 318402, at *

("The context of this demand within a letter about immigration enforcement casts serious doubt as to the true purposes for which Plaintiff is seeking voter registration lists in this and other cases, and what it intends to do with that data.").

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 Georgians' 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; *accord Oregon*, 2026 WL 318402, at *11 ("The presumption of regularity that has been previously extended to [the United States] that it could be taken at its word—with little doubt about its intentions and stated purposes—no longer holds.").

II. Any records disclosed under the CRA should be redacted to protect the constitutional rights of the voter, so the Court must deny the United States' request.

Even if disclosure were appropriate, sensitive personal voter information would still be subject to redaction. Indeed, courts have found that redaction may be required to prevent the disclosure of sensitive personal information that would create an intolerable burden on the constitutional right to vote. The cases

interpreting Section 8(i) of the NVRA are instructive, as courts have consistently permitted—and sometimes required—redaction of voters' sensitive personal data before disclosure to protect voter privacy and ensure compliance with federal and state law and the Constitution.

Like the CRA, the NVRA is silent as to how sensitive personal information should be treated during disclosure. *See* 52 U.S.C. § 20703; § 20507(i)(1). Courts must interpret the disclosure provisions in a manner that does not unconstitutionally burden the right to vote. *See Burban v. City of Neptune Beach, Fla.*, 920 F.3d 1274, 1282 (11th Cir. 2019) (under the doctrine of constitutional avoidance, "[w]e avoid statutory interpretations that raise constitutional problems"). Federal courts have consistently struck this balance, interpreting the "all records concerning" language in Section 8(i) to permit—and sometimes require—redaction and the protection of confidential materials. As the First Circuit has noted, "nothing in the text of the NVRA prohibits the appropriate redaction of uniquely or highly sensitive personal information in the Voter File," and such redaction "can further assuage the potential privacy risks implicated by the public release of the Voter File." *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 56 (1st Cir. 2024); *see also Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 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); *Pub. Int. Legal Found., Inc. v. Dahlstrom*, 673 F. Supp. 3d 1004, 1015–16 (D. Alaska 2023) (similar); *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) (similar).

Redaction also may be affirmatively required if the disclosure would "create[] an intolerable burden on [the constitutional right to vote] as protected by the First and Fourteenth Amendments." *Project Vote/Voting for Am. v. Long*, 682 F.3d 331, 339 (4th Cir. 2012) (quotation marks and citation omitted). The Fourth Circuit, even while granting access to voter registration applications, affirmed the importance of redacting Social Security numbers, which are "uniquely sensitive and vulnerable to abuse." The court emphasized that the NVRA reflected Congress's view that the right to vote was "fundamental," and that the unredacted release of records risked deterring citizens from registering to vote and thus created an "intolerable burden" on this fundamental right. *Id*. at 334, 339; *cf. In re Coleman*, 208 F. Supp. at 200 (noting, in the context of a Title III records request, multiple considerations which could be "[s]ignificant," including whether "official records are privileged, or exempt from discovery for any sound reason of public policy," or "that an inspection of these records would be oppressive, or any

unlawful invasion of any personal constitutional right"). As such, public disclosure provisions such as those in the NVRA and Title III must be interpreted to avoid this unconstitutional burden. *See Long*, 682 F.3d at 339; *Bellows*, 92 F.4th at 56. The danger of imposing those burdens on Georgia voters and civic groups is present here. *See* Mot. to Intervene, Ex. 3, Decl. of Rosario Palacios ¶¶ 7, 11–19, Dkt. 6-4.

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

CONCLUSION

For all of these reasons, Intervenor-Defendants Common Cause and Rosario Palacios respectfully request that the United States' Complaint be dismissed.

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Respectfully submitted,

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** application for admission pro hac vice forthcoming*

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), the undersigned hereby certifies that the foregoing brief was prepared in 13-point Book Antiqua, a font and type selection approved in Local Rule 5.1(C).

/s/Cory Isaacson

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