

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION

THE UNITED STATES OF AMERICA,

*Plaintiff,*

v.

BERNADETTE MATTHEWS, in her Official  
Capacity as Executive Director of the State Board  
of Elections for the State of Illinois,

*Defendant.*

Civil Action No. 3:25-cv-3398-CRL-DJQ

**INTERVENOR DEFENDANTS COMMON CAUSE, ILLINOIS COALITION FOR  
IMMIGRANT AND REFUGEE RIGHTS, BRIAN BEALS, PABLO MENDOZA, AND  
ALEJANDRA L. IBANEZ'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO  
DISMISS AND IN OPPOSITION TO MOTION TO COMPEL**

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## INTRODUCTION

In this action—one of dozens filed across the country—the United States seeks to compel the disclosure of voters’ sensitive personal voter data to which it is not entitled, using civil rights laws as a pretext. Because the United States failed to disclose the basis and purpose of its request, dismissal should be granted, and its attempt to summarily dispose of this case via an improper motion to compel should be rejected.

Congress has repeatedly legislated to protect the franchise, including through Title III of the Civil Rights Act of 1960 (“CRA” or “Title III”), 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 the U.S. Department of Justice (“DOJ”) 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., C.R. Div., *Federal Law Constraints on Post-Election “Audits”* (July 28, 2021), <https://perma.cc/74CP-58EH> (citing *Alabama ex rel. Gallion v. Rogers*, 187 F. Supp. 848, 853 (M.D. Ala. 1960) and H.R. Rep. No. 86-956, at 7 (1959)).

The federal government’s demand for Illinois’ unredacted voter file—which contains sensitive personal information including driver’s license numbers and Social Security numbers from millions of Illinoisans—violates the CRA and undermines its core purposes. Releasing unredacted voter records for purposes unrelated to protecting voter access would deter voter participation and undermine the right to vote. That is especially so here, where the government’s actual purpose—widely reported but never disclosed in its request—is to build an unauthorized and unlawful national voter database to illegally target and challenge voters.

Courts considering materially identical complaints have dismissed the United States' claims. *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 United States v. Benson*, No. 1:25-cv-1148-HYJ-PJG, 2026 WL 362789 (W.D. Mich. Feb. 10, 2026) (dismissing CRA claims on other grounds). This Court should do the same.

## **BACKGROUND**

### **I. The United States Seeks to Force the Disclosure of Sensitive Voter Data.**

Beginning in May 2025, Plaintiff United States, through 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 Mar. 4, 2026), <https://perma.cc/M6QS-THRS>.

On July 28, 2025, DOJ demanded that the Illinois State Board of Elections produce an electronic copy of Illinois' entire statewide voter registration list, including "all fields," and answer questions about its list maintenance procedures. Compl. ¶¶ 19–21; Pl.'s Mot. for Order to Compel, Ex. 1, Ltr. from Michael E. Gates to the Hon. Bernadette Matthews dated July 28, 2025, Dkt. 5-2 ("July 28 Letter"). Illinois declined to provide an unredacted file. *See* Compl. ¶¶ 22–25; Pl.'s Mot. for Order to Compel, Ex. 2, Ltr. from the Hon. Bernadette Matthews dated Aug. 14, 2025, Dkt. 5-2 ("August 14 Letter"); Ex. 3, Ltr. from the Hon. Bernadette Matthews dated Sept. 2, 2025, Dkt. 5-2 ("September 2 Letter"). The United States responded by filing this lawsuit and motion to compel, which is one of at least thirty similar suits seeking disclosure of sensitive voter data.<sup>1</sup>

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<sup>1</sup> *See* Press Release, U.S. Dep't of Just., *Justice Department Sues Five Additional States for Failure to Produce Voter Rolls* (Feb. 26, 2026), <https://perma.cc/67UZ-KJFY>; Press Release, U.S. Dep't of Just., *Justice Department Sues Virginia for Failure to Produce Voter Rolls* (Jan. 16, 2026),

## II. The United States Seeks to Unlawfully Construct a National Voter Database with the Data.

DOJ’s request for sensitive voter data from Illinois appears to be part of a broader effort to construct a national voter database—using untested database matching techniques to scrutinize state voter rolls and, in effect, to “nationalize” elections. 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. *See Mem. in Support of Mot. to Intervene as Defs. at 5–6 & nn.2–3, Dkt. 25.*

According to public reporting, federal employees “have been clear that they are interested in a central, federal database of voter information.”<sup>2</sup> DOJ is coordinating these novel efforts with the federal Department of Homeland Security (“DHS”), according to reported statements from DOJ and DHS.<sup>3</sup> One recent article extensively quoted a lawyer who recently left DOJ’s Civil Rights Division, describing the Administration’s aims in these cases:

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<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>.

<sup>2</sup> 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>.

<sup>3</sup> *Id.*; see also, e.g., Jonathan Shorman, *DOJ is Sharing State Voter Roll Lists with Homeland Security*, STATELINE, Sept. 12, 2025, <https://stateline.org/2025/09/12/doj-is-sharing-state-voter-roll-lists-with-homeland-security>; Sarah Lynch, *US Justice Dept Considers Handing over Voter Roll Data for Criminal Probes, Documents Show*, REUTERS, Sept. 9, 2025,

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.<sup>4</sup>

Indeed, publicly-disclosed documents have confirmed that DOJ has asked staffers from the “Department of Governmental Efficiency” (“DOGE”) to identify noncitizens in state voter rolls by matching voter data with data from the Social Security Administration.<sup>5</sup> 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.<sup>6</sup>

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

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<https://www.reuters.com/legal/government/us-justice-dept-considers-handing-over-voter-roll-data-criminal-probes-documents-2025-09-09>.

<sup>4</sup> 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>.

<sup>5</sup> *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> .

<sup>6</sup> 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>.

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 (D. Md. Jan. 16, 2026), Dkt. 197.<sup>7</sup> 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.” *Id.* at 6.

The current administration has made clear these efforts’ purpose. Last 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.”<sup>8</sup>

### **III. The United States Seeks to Unlawfully Use the Data to Disenfranchise Voters.**

Additional federal government documents reveal how the United States plans to use voters’ sensitive personal data: to assert control over voting eligibility, “nationalize” elections, order voter disenfranchisement, and potentially contest election results. As noted in the Common Cause Intervenors’ motion to intervene, 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

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<sup>7</sup> 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>.

<sup>8</sup> 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>.

(“MOU”); *see also* Declaration of Eric Neff in Support of Motion to Compel ¶ 21, *United States v. Raffensperger*, No. 26-cv-485-ELR (N.D. Ga. Feb. 19, 2026), Dkt. 31-2 (acknowledging MOU and representing that two states have signed it).<sup>9</sup> The MOU purports to vest the United States with substantial new authority to identify supposedly ineligible voters on voter rolls and then compel their removal, 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. 52 U.S.C. § 20507(a)(4); § 21083(a)(4)(A). The specific procedures for complying with HAVA’s centralized voter file requirement are thus “left to the discretion of the State.” 52 U.S.C. § 21085. The NVRA also protects voters by requiring that certain potentially ineligible voters remain on the rolls for two election cycles before removal, reducing the risk of erroneously purging ineligible voters. *Id.* § 20507(d)(1)(B). That reflects Congress’ core goals with the NVRA: protecting and expanding the right to register to vote and participate in democracy. *E.g.*, 52 U.S.C. § 20501.

The MOU’s terms, however, purport to vest authority to identify ineligible voters in the federal government. MOU at 3, 6. The MOU makes DOJ a “Custodian” of the state’s voter file and requires DOJ to analyze that file and identify “any voter list maintenance issues, insufficiencies, inadequacies, deficiencies, anomalies, or concerns” bearing on whether the list “only includes eligible voters.” *Id.* at 4–5. Once federal officials flag voters as ineligible, states would be required to remove them “within forty-five (45) days” and resubmit their voter lists for further review. *Id.* at 5. These removals would be required regardless of the NVRA’s procedural

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<sup>9</sup> An endorsed version of the MOU, bearing DOJ’s signature, is attached to this motion as Exhibit 1. This Court may take judicial notice of the MOU as a public record. *See General Elec. Capital Corp. v. Lease Resolution Corp.*, 128 F.3d 1074, 1080–81 (7th Cir. 1997).

protections—including its firm prohibition on systematic voter removals within 90 days of an election, 52 U.S.C. § 20507.<sup>10</sup>

DOJ’s actions also indicate that it may target specific groups of voters in its use of the requested data. In its July 28 Letter, and in letters to other states, DOJ requested information about how election officials verify that registered voters are not ineligible to vote for reasons such as a felony conviction or lack of citizenship. *See* Mem. in Support of Mot. to Intervene as Defs. at 7 & n.4. These questions target voters who are uniquely vulnerable to being wrongly removed from the voter rolls based on imperfect data matching systems, including naturalized citizens (whose current citizenship status might not be reflected in databases that have out-of-date information) and voters with felony convictions (who may have been previously ineligible to vote and removed from the rolls before having their rights restored).

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, regarding DHS’s “Operation Metro Surge” in the Twin Cities.<sup>11</sup> Like Illinois, Minnesota has been sued by the federal government for access to its unredacted voter rolls. The letter lists three actions Minnesota must take to “restore the rule of law, support ICE officers, and bring an end to the chaos”—one being to “allow the Civil Rights Division of the Department of Justice to

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<sup>10</sup> *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/>.

<sup>11</sup> *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-cv-4669 (D. Minn. Jan. 16, 2026), Dkt. 85 (granting injunction against certain DHS practices towards the civilian population of Minneapolis-St. Paul in connection with purported immigration enforcement operations there).

access voter rolls to confirm that Minnesota’s voter registration practices comply with federal law as authorized by the Civil Rights Act of 1960.”<sup>12</sup>

### LEGAL STANDARD

A court must dismiss a complaint if, accepting all well-pleaded factual allegations as true, it does not “state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). A court need not accept a complaint’s legal conclusions. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Nor can “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements,” survive a motion to dismiss. *Id.* at 678–79. In assessing a motion for failure to state a claim, courts may take judicial notice of matters of public record, orders, items appearing in the record, and exhibits attached to the complaint. *See General Elec. Capital Corp.*, 128 F.3d at 1080–81.

### ARGUMENT

#### I. The United States Is Not Entitled to Summary Proceedings For its Data Request.

In its motion to compel, the United States claims that its request is not subject to meaningful procedural safeguards, in particular, scrutiny under Federal Rule of Civil Procedure 12. It asserts that Title III universally “displaces the Federal Rules of Civil Procedure by creating a ‘special statutory proceeding’” where “[a]ll that is required is a simple statement by the Attorney General[,]” made after “a written demand for Federal election records and papers covered by the statute, explaining that the person against whom an order is sought has failed or refused to make the requested records” available. Mem. in Support of Order to Compel Prod. of Recs. (“Mot. to Compel Br.”) at 6, Dkt. 5-1 (citations omitted); *see also* Compl. ¶¶ 1–4.

The CRA says nothing of the sort, and binding precedent is to the contrary. “Title III cannot

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<sup>12</sup> Bondi Letter at 2–3.

transform an election records request by the federal government from an ordinary civil action into an action comparable to an order to show cause.” *Weber*, 2026 WL 118807, at \*8; *accord Oregon*, 2026 WL 318402, at \*8.

Start with the text. Title III provides that when the Attorney General makes a demand for voting-related records or papers, the federal district court where such demand is made “shall have jurisdiction *by appropriate process* to compel the production of such record or paper.” 52 U.S.C. § 20705 (emphasis added). This “appropriate process” is set forth in the Federal Rules of Civil Procedure, which, with limited exceptions, “govern the procedure in *all* civil actions and proceedings in the United States district courts.” Fed. R. Civ. P. 1 (emphasis added). The Rules contain limited and narrow carveouts to their own application, none of which includes the claim under Title III at issue here. *See* Fed. R. Civ. P. 81. Indeed, Rule 81 affirmatively states that the Rules *do* apply in “proceedings to compel testimony or the production of documents through a subpoena issued by a United States officer or agency under a federal statute . . . .” Fed. R. Civ. P. 81(a)(5).

Binding precedent is in accord. The Supreme Court has held that the Federal Rules of Civil Procedure apply to summonses. *See Donaldson v. United States*, 400 U.S. 517, 528 (1971) (“The Civil Rules, of course, do have an application to a summons proceeding.” (citing Fed. R. Civ. P. 81)), *superseded by statute on unrelated grounds as recognized by PolSELLI v. IRS*, 598 U.S. 432 (2023); *accord Becker v. United States*, 451 U.S. 1306, 1307–08 (1981) (Rehnquist, J., in chambers) (same). Indeed, shortly after the enactment of Title III, the Court held that proceedings under the IRS’s authority to compel production of records were governed by the Federal Rules and that the government bore the burden to establish the statutory requirements prior to enforcement. *See United States v. Powell*, 379 U.S. 48, 5–7-58 (1964). The IRS statute is materially identical to

Title III. *Compare* 26 U.S.C. § 7604(a) (“[T]he United States district court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data . . . .”), *with* 52 U.S.C. § 20705 (“The United States district court for the district in which a demand is made . . . or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper.”). *Powell* confirms that its reasoning is not limited to the IRS context, as the Court explained that “the Federal Rules of Civil Procedure apply” because § 7604(a) “contains no provision specifying the procedure to be followed in invoking the court’s jurisdiction.” 379 U.S. at 58 n.18.

In its motion to compel, the United States relies primarily on out-of-Circuit cases from more than sixty years ago and does not point to any more recent caselaw supporting its position on summary proceedings. *See* Mot. to Compel Br. at 6–8, 12. In particular, it extensively cites *Kennedy v. Lynd*, 306 F.2d 222 (5th Cir. 1962), which arose out of the specific context of the Jim Crow South and was decided prior to *Powell*. “[T]he Supreme Court’s holding in *Powell* squarely rejects Plaintiff’s contention and reliance on *Lynd*.” *Oregon*, 2026 WL 318402, at \*8.

The United States’ reliance on *Lynd* is misplaced for multiple reasons. For one, the United States affirmatively chose to commence this matter with the filing of a complaint. The United States thus affirmatively invoked the Rules to initiate this litigation, and it cannot now disclaim them because the results proved unfavorable. *See Oregon*, 2026 WL 318402, at \*8 n.1 (“Even if *Lynd* applied here, the Court doubts its applicability here where Plaintiff made an affirmative choice to file a complaint and proceed through ordinary litigation.”).

Nor is the information sought here analogous to the data requests at issue in *Lynd* and the other early cases DOJ cites. Those cases were decided before sensitive personal identifying

information, such as a Social Security number or driver’s license number, were widely collected as part of a person’s voter registration record, and before the passage of landmark federal statutes protecting such information.<sup>13</sup> Indeed, *Lynd* explicitly noted that the records at issue were not “confidential” or “private.” 306 F.2d at 231.<sup>14</sup>

The United States acknowledges that “[c]aselaw addressing the CRA in any depth is confined to courts within the Fifth Circuit in the early years following the CRA’s enactment,” and that “courts have not had occasion to revisit the issue.” Mot. to Compel Br. at 5 n.1. But the United States studiously ignores why that is the case. *Lynd* was decided by the Jim Crow-era Fifth Circuit, consisting of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.<sup>15</sup> In these states, election officials notoriously used every possible means to block Black Americans from registering to vote.<sup>16</sup> Congress enacted Title III to facilitate discrimination suits against recalcitrant Jim Crow counties that refused to process the voter registrations of Black voters and that stymied every effort to enforce federal law, sometimes with help from friendly judges. *Lynd*, 306 F.2d at

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<sup>13</sup> 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).

<sup>14</sup> Nor does *Lynd* create the unfettered authority that the United States describes. *See 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 that while “[t]he right of free examination of official records is the rule” under Title III there could be “exception[s]” where “the purpose is speculative, or from idle curiosity”). *Lynd* noted that the CRA authorizes jurisdiction by “appropriate process” to compel production, 52 U.S.C. § 20705, which the court had “no doubt” would “include the power and duty to issue protective orders”—such as orders protecting and redacting sensitive information. 306 F.2d at 230.

<sup>15</sup> *Federal Judicial Circuits: Fifth Circuit*, Federal Judicial Center, <https://perma.cc/9MSD-EFRB> (last visited Dec. 9, 2025).

<sup>16</sup> *See generally, e.g.*, Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944-1969* (1976).

228 (“[Title III’s] purpose is to enable the Attorney General to determine whether [52 U.S.C. § 10101 pattern-or-practice] suits or similar actions should be instituted. And it is to enable him to obtain such evidence for use in such cases if and when filed.”). By the time *Lynd* was decided, the county registrar defendants had already spent eighteen months filing “a series of motions, motions to dismiss, opposing substitution motions for more definite statement and briefs and repeated extended oral arguments thereon,” all “with no clear-cut ruling, no indication that this interminable proceeding would ever come to an end, and certainly never an order for production.” *Id.* at 227.

It was against this backdrop of open, explicit discrimination and prolonged abuse of judicial process that the Fifth Circuit noted that “the factual foundation for, or the sufficiency of, the Attorney General’s ‘statement of the basis and the purpose’ contained in the written demand is not open to judicial review or ascertainment.” *Lynd*, 306 F.2d at 226 (citation omitted). In that context, “the factual foundation for” the basis and the purpose of the Attorney General’s request was self-evident, and plenary consideration thus not required. *See id.* That court’s treatment of the CRA more than sixty years ago cannot be divorced from its context. By contrast, here, more than sixty years later, the context of *this* request could not be more different. The United States has invoked the CRA for unprecedented purposes, to make sweeping demands for extensive voter data with no showing or claim of legal deficiencies or violations of rights, while making unprecedented demands for sensitive personal information.

“Nothing in the text of Title III requires a special statutory proceeding or any abbreviated procedures.” *See Weber*, 2026 WL 118807, at \*8. Because the Rules apply, the Complaint must survive scrutiny under Rule 12—which it does not.

## **II. The Complaint Fails to State a Claim Under Title III Because It Does Not Adequately Plead That DOJ Has Provided a Written Statement of Its Basis and Its Purpose.**

Title III requires that any records demand by the Attorney General include “a statement of the basis and the purpose therefor.” 52 U.S.C. § 20703. DOJ’s statements fail this requirement in two independent respects: (1) they are inadequate—particularly given the unprecedented scope of its demand for Illinois’ complete, unredacted voter registration list—and (2) they are pretextual, contradicted by a growing body of judicially noticeable evidence. The Complaint therefore fails to state a claim.

### **A. DOJ’s Statement of the Basis and the Purpose for its Request is Inadequate.**

Title III’s “basis” and “purpose” requirements are distinct. 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 (similar). 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.”).

DOJ’s request fails to provide “a statement of the basis and the purpose” sufficient under the statute to support disclosure of the unredacted voter file. 52 U.S.C. § 20703. Here, the Complaint offers only the conclusory allegation: “The written demand ‘contain[ed] a statement of the basis and the purpose therefor.’” Compl. ¶ 27 (citation omitted). Such “a formulaic recitation of the elements of a cause of action” is not “enough to raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

The letters incorporated by reference into the Complaint provide little more. The July 28 Letter does not mention the CRA at all. *See* July 28 Letter at 2–5. And the August 14 Letter—which is the first to mention the CRA—likewise includes only a bare allegation that the purpose is to “assess [Illinois’] compliance with the statewide [voter registration list] maintenance provisions of the [NVRA].” August 14 Letter at 7. Neither the Complaint nor the letters alleges adequate evidence of anomalies or anything amiss with Illinois’ list maintenance. This omission is fatal. *See Weber*, 2026 WL 118807, at \*9–10 (detailing how the United States did not meet the statutory “basis” requirement as it failed to provide any reason why it believed California violated federal law).

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 does not explain why unredacted voter files are necessary to determine whether Illinois has “conduct[ed] a general program that makes a reasonable effort to remove the names of ineligible voters” by virtue of “death” or “a change in the residence of the registrant,” Compl. ¶ 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 their compliance; the unredacted voter file does not. Even if the United States identified voters who had moved or died on Illinois’ voter list at a single point in time, that would not amount to Illinois failing to comply with the “reasonable effort” required by the NVRA or HAVA. *See, e.g., Pub. Int. Legal Found. v. Benson*, 136 F.4th 613, 624–27 (6th Cir. 2025)

(describing a “reasonable effort” as “a serious attempt that is rational and sensible” and rejecting any “quantifiable, objective standard” in this context).<sup>17</sup>

The basis and purpose requirement 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 of why the information is sought and how it will aid the investigation. “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.” *Oregon*, 2026 WL 318402, at \*9. 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,” and that subpoenas issued in bad faith ought not to be enforced, *Powell*, 379 U.S. at 57. Such requirements ensure that the information sought is relevant and not unduly burdensome. *See Commodity Futures Trading Comm’n v. Tokheim*, 153 F.3d 474, 477 (7th Cir. 1998). The CRA’s basis and purpose requirement serves the same function: preventing the statute from being weaponized as a “fishing expedition” to obtain records for speculative, impermissible, or legally unauthorized reasons unrelated to the CRA’s aims. *Weber*, 2026 WL 118807, at \*9.

As such, even if some other voting records were necessary to investigate Illinois’ NVRA list maintenance compliance, the United States has not justified demanding the full *unredacted*

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<sup>17</sup> What is more, the inclusion at any particular point in time on Illinois’ voter registration list of some voters who may have potentially moved out of Illinois is not unusual, since 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 the State “shall not remove” voters on these grounds unless these voters directly confirm their change of residence in writing, or unless the State first provides notice and then abides by a statutory waiting period until the second general federal election after providing notice. 52 U.S.C. § 20507(d).

voter file. For decades, DOJ has neither sought nor required a full, unredacted voter file in its NVRA compliance investigations.<sup>18</sup> The United States' failure to articulate the basis and purpose for its demand is fatal to its request.

**B. DOJ's Statement of the Basis and the Purpose for its Request is Pretextual.**

The government's statement is not just legally insufficient—it is also pretextual. Section 303 requires a statement of “*the* basis and *the* purpose” of a records request. By twice using the definite article, the statute demands disclosure of the *actual* basis and purpose—not merely one among many. *See Niz-Chavez v. Garland*, 593 U.S. 155, 165–166 (2021); *see also, e.g., Corner Post, Inc. v. Bd. of Governors of the Fed. Rsrv. Sys.*, 603 U.S. 799, 817 (2024). The United States has not done so, and this Court “is not obliged to accept a contrived statement and purpose” in its place. *Weber*, 2026 WL 118807, at \*10. Judicially noticeable materials confirm that DOJ's true aim is not NVRA or HAVA compliance, but “to gather the sensitive, private information of millions of Americans for use in a centralized federal database.” *Id.*; *accord Oregon*, 2026 WL 318402, at \*11, \*13; *see also supra* Background Sections II–III. Such a database would itself be unlawful. Congress has never authorized a national voter database—let alone one designed to target and mass-challenge voters. Its creation alone would violate, among other provisions, the Privacy Act's prohibition on maintaining any database “describing how any individual exercises rights guaranteed by the First Amendment,” which necessarily includes the right to vote. *See* 5 U.S.C. § 552a(e)(7).

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<sup>18</sup> *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).

DOJ's conduct further demonstrates pretext. The NVRA and HAVA require states—not the federal government—to make “reasonable effort” to remove ineligible voters, 52 U.S.C. §§ 20507(a)(4), 21083(a)(4)(A), with methods of compliance “left to the discretion of the State,” *id.* § 21085. Far from ensuring compliance with these statutes, the United States' proposed MOU would violate them in at least two ways. First, it purports to vest authority to identify ineligible voters in the federal government, contrary to the statute. MOU at 3, 6. Second, it would compel states to remove flagged voters “within forty-five (45) days,” *id.* at 5—in violation of the NVRA's procedural protections for voters. 52 U.S.C. § 20507.

Likewise, the Attorney General's recent letter to Minnesota, linking a voter data demand to immigration enforcement, further exposes the mismatch between DOJ's stated and actual purposes. As the federal court in *Oregon* explained, the context of a voter data 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.” 2026 WL 318402, at \*11.

Because the United States has not honestly disclosed its purpose, it cannot invoke the NVRA, HAVA, or the CRA as cover. Those statutes were enacted to protect voting rights, not to provide “DOJ . . . the guise of a pretextual investigative purpose.” *Weber*, 2026 WL 118807, at \*12; *Oregon*, 2026 WL 318402, at \*11. DOJ's failure to state its true purpose is independently fatal to the claim.

### **III. Nothing in Title III Entitles DOJ to Unredacted Records.**

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. While DOJ states that it will comply with all relevant federal privacy

protections, *see* Mot. to Compel Br. at 11, redaction is particularly appropriate in light of DOJ’s admissions that federal government officials have shared sensitive Social Security information with third parties seeking to challenge registrations and (as DOJ itself states) “overturn elections.” *AFSCME* Notice, *supra*, at 5–6.

As discussed, Title III was enacted prior to the collection of sensitive personal information, particularly driver’s license or Social Security numbers, as part of voter registration. *See supra* Argument Section I. It makes sense that caselaw from this period (which DOJ insists has great persuasive value) distinguishes the records then at issue—“public records which ought ordinarily to be open to legitimate reasonable inspection”—from “confidential, private papers and effects.” *Lynd*, 306 F.2d at 231. Indeed, the public version of the voter file today is in fact “ordinarily . . . open to legitimate reasonable inspection”; it is only the uniquely sensitive fields that are not. The information collected as part of registering to vote has changed over time, meaning courts adjudicating requests for records under Title III must now consider voters’ privacy interests.

Cases interpreting Section 8(i) of the NVRA are instructive, because 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. 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). As here, courts must interpret the NVRA’s disclosure provisions in a manner that does not unconstitutionally burden the right to vote. *See United States v. Orona-Ibarra*, 831 F.3d 867, 876 (7th Cir. 2016) (applying “[t]he well-established canon of constitutional avoidance,” which instructs that “[w]here a statute is susceptible of two constructions, by one of which grave and doubtful constitutional questions arise and by the other

of which such questions are avoided, our duty is to adopt the latter” (quoting *Jones v. United States*, 529 U.S. 848, 857 (2000)).

Federal courts have consistently struck this balance, interpreting the “all records concerning” language in Section 8(i) to permit—and sometimes require—redaction and the protection of confidential materials. As the First Circuit has noted, “nothing in the text of the NVRA prohibits the appropriate redaction of uniquely or highly sensitive personal information in the Voter File,” and such redaction “can further assuage the potential privacy risks implicated by the public release of the Voter File.” *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 56 (1st Cir. 2024); see also *Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 266–68 (4th Cir. 2021) (holding that the potential connection to ongoing criminal investigations and the possibility of erroneously labeling a voter as a noncitizen and subjecting them to public harassment warrants maintaining confidentiality). Other courts have consistently recognized that the NVRA does not compel the release of sensitive information otherwise protected by federal or state laws. See, e.g., *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); *N.C. State Bd. of Elections*, 996 F.3d at 264; *Pub. Int. Legal Found., Inc. v. Dahlstrom*, 673 F. Supp. 3d 1004, 1015–16 (D. Alaska 2023).

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 America, Inc. v. Long*, 682 F.3d 331, 339 (4th Cir. 2012) (quotation marks and citation omitted). The Fourth Circuit, even while granting access to voter registration applications, affirmed the importance of redacting Social Security numbers, which are “uniquely sensitive and vulnerable to abuse.” *Id.* The court emphasized that the NVRA reflected

Congress' view that the right to vote was "fundamental," and that the unredacted release of records risked deterring citizens from registering to vote and thus created an "intolerable burden" on this fundamental right. *Id.* at 334, 339; *cf. In re Coleman*, 208 F. Supp. at 200 (noting, in the context of a Title III records request, multiple considerations which could be "[s]ignificant," including whether "official records are privileged, or exempt from discovery for any sound reason of public policy," or "that an inspection of these records would be oppressive, or any unlawful invasion of any personal constitutional right"). As such, public disclosure provisions such as those in the NVRA and Title III must be interpreted to avoid this unconstitutional burden. *See Long*, 682 F.3d at 339; *Bellows*, 92 F.4th at 56. The danger of imposing those burdens on Illinois voters and civic groups is present here. *See* Mot. to Intervene, Ex. 2, Decl. of Elizabeth J. Grossman ¶¶ 12–15, Dkt. 25-2; Ex. 3, Decl. of Lawrence Benito ¶¶ 10–17, Dkt. 25-3; Ex. 4, Decl. of Brian Beals ¶¶ 8–12, Dkt. 24-5; Ex. 5, Decl. of Pablo Mendoza ¶ 7, Dkt. 25-5; Ex. 6, Decl. of Alejandra L. Ibañez ¶¶ 8–9, Dkt. 25-6.

The same privacy and constitutional concerns warranting redactions under the NVRA apply equally to requests under the CRA. *Cf. Sheetz v. Cnty. of El Dorado*, 601 U.S. 267, 281–82 (2024) (Gorsuch, J., concurring) ("[O]ur Constitution deals in substance, not form. However the government chooses to act, . . . it must follow the same constitutional rules."). And the limited case law considering CRA records requests acknowledges that courts retain the "power and duty to issue protective orders," *Lynd*, 306 F.2d at 230, such as the redaction of sensitive fields that courts have consistently determined are entitled to protection from disclosure. *Accord Oregon*, 2026 WL 318402, at \*12 ("[T]he vast array of cases cited above addressing the propriety of redaction in the context of the NVRA confirm that such redaction is appropriate and permissible.").

### CONCLUSION

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

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief contains 6,688 words and therefore complies with the type volume limitation of Civil LR 7.1.

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record on March 23, 2026.

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