

**THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

BRENNAN CENTER FOR JUSTICE AT  
NEW YORK UNIVERSITY SCHOOL OF  
LAW,

*Plaintiff,*

v.

Civil Action No. 26-cv-

U.S. DEPARTMENT OF JUSTICE,

*Defendant.*

**ORAL ARGUMENT REQUESTED**

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S  
MOTION FOR A PRELIMINARY INJUNCTION**

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## INTRODUCTION

The Brennan Center for Justice (“Brennan”) seeks time-sensitive relief in this Freedom of Information Act (“FOIA”) action seeking records about federal efforts to obtain unprecedented access to and control over state voter rolls. These records are urgently needed to inform the public about the federal government’s use of sensitive voter information. The Department of Justice’s (“DOJ’s”) actions in seeking to obtain and influence the nation’s voter lists have attracted exceptional media interest and raised questions about government integrity that affect public confidence. And because the records involve DOJ efforts to determine who may vote in the upcoming 2026 federal election, the records will be of substantially reduced value after voting begins this fall.

Over the last ten months, DOJ has intensified its efforts to obtain the nation’s voter registration lists and direct the removal of voters it deems ineligible, filing dozens of lawsuits against states that have declined to cooperate and seeking to expedite litigation of those cases. This campaign comes as the President has urged that we “nationalize” elections and sought unprecedented federal control over election administration. But the public, and even state governments and courts, have been kept in the dark about the nature and scope of DOJ’s efforts. Brennan’s FOIA requests seek records that will shed key light on DOJ’s actions, including through production of the Department’s communications with states complying with DOJ demands, key policy documents and agreements, and the lists of voters DOJ has identified for removal from voter rolls.

Brennan has amply demonstrated that its FOIA requests warrant expedited processing, providing extensive evidence of both 1) the urgency to inform the public about this matter, and 2) the widespread media interest it has received. Brennan’s core work of informing the public about matters that impact our democracy—and its specific efforts to disseminate information about

DOJ’s voter roll efforts—will be irreparably harmed if disclosure is delayed until after the information can meaningfully inform the public before this year’s elections. As such, Brennan asks the Court to require DOJ to expedite processing of its requests and to produce the responsive records sufficiently in advance of the impending elections—where voting begins in mid-September—to allow Brennan to conduct its work of informing the public, and to allow the consequent public debate and advocacy while the information is still meaningful.

## BACKGROUND

### I. DOJ CRT Intensifies Campaign to Access and Influence State Voter Lists

Over the past ten months, DOJ has carried out an intensifying campaign to access state voter registration lists nationwide in order to direct or influence the removal of voters that the Trump-Vance Administration deems ineligible before this November’s midterm elections. In September 2025, The New York Times reported that DOJ had begun an unprecedented effort to seek detailed voter registration information from dozens of states to “establish a national voting database.”<sup>1</sup> Initially, “[n]early every state ha[d] resisted turning over voter files” containing sensitive personal information.<sup>2</sup> Later in September, DOJ sued six states for failing to comply with its demands for full access to state voter registration lists.<sup>3</sup>

In December 2025, DOJ sent states a proposed “Confidential Memorandum of Understanding” (“MOU”) to reiterate DOJ’s demand for prompt, unredacted access to state voter

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<sup>1</sup> See Declaration of Daniel A. McGrath (“McGrath Declaration”) ¶ 4 Ex. 1 n.12 (citing Devlin Barrett & Nick Corasaniti, *Trump Administration Quietly Seeks to Build National Voter Roll*, N.Y. TIMES (Sept. 9, 2025), <https://perma.cc/NTE8-9E8T>).

<sup>2</sup> *Id.*

<sup>3</sup> Matt Cohen, *DOJ Sues Six States, Escalating Campaign to Seize Private Voter Data*, DEMOCRACY DOCKET (Sept. 25, 2025), <https://perma.cc/8K5G-WUdT>.

rolls.<sup>4</sup> The MOU proposed that each state would transfer its “complete statewide VRL/Data to the Civil Rights Division of the U.S. Department of Justice” within 5 business days.<sup>5</sup> The MOU also indicated that DOJ would allow “a contractor” to access the data to assist in “the Department’s [voter] list maintenance” efforts.<sup>6</sup> Through its MOU, DOJ also sought to require states to commit to “removing ineligible voters” from registration rolls within 45 days after any DOJ notification of voters it deems ineligible.<sup>7</sup> DOJ’s MOU thus sought to vest DOJ with extraordinary power to control the nation’s voter registration lists: the power to determine who may and may not vote in this year’s elections.

At least 16 states have complied or agreed to comply with DOJ requests for voter roll access, with at least some of those states executing DOJ’s MOU.<sup>8</sup> In recent months, DOJ has aggressively sought court orders granting the Department access and influence over voter rolls nationwide.<sup>9</sup> The Department has now sued 30 states that failed to comply with its demands for unfettered access to voter registration information, filing its latest suit against Idaho in April 2026.<sup>10</sup> DOJ has told courts that it believes these cases must be adjudicated on an expedited basis

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<sup>4</sup> See McGrath Decl. ¶ 12 Ex. 8, n.1 (citing Dep’t of Justice, Civil Rights Division, Confidential Memorandum of Understanding (“DOJ MOU”), <https://perma.cc/44KT-HBCS>); see also Matt Cohen, *Colorado Tells DOJ ‘Take a Hike’ as It Rejects Demand for Statewide Voter Data*, DEMOCRACY DOCKET, (Dec. 3, 2025), <https://perma.cc/W3J6-KV7E>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*; see also *id.*, n.2 (citing Jonathan Shorman, *Trump’s DOJ offers states confidential deal to remove voters flagged by feds*, STATELINE (Dec. 18, 2025), <https://perma.cc/VS67-3NHR>).

<sup>8</sup> *Id.* at ¶ 4, Ex. 1, n.7, (citing Kaylie Martinez-Ochoa, Eileen O’Connor, and Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, THE BRENNAN CENTER (Updated Mar. 10, 2026), <https://perma.cc/TQM4-WCWK>).

<sup>9</sup> Yunior Rivas, *Trump DOJ expands voter roll crusade, sues five more states — including four red ones*, DEMOCRACY DOCKET (Feb. 26, 2026), <https://perma.cc/W5DK-RK42>.

<sup>10</sup> *Id.*; Press Release, *Justice Department Sues Idaho for Failure to Produce Voter Rolls*, U.S. DEP’T OF JUST. (Apr. 1, 2026), <https://perma.cc/3X4P-JDB9>.

as the process of obtaining voter lists and removing voters from registration rolls must be completed by August 4, 2026<sup>11</sup> due to the National Voter Registration Act (“NVRA”) 90-day quiet period, 52 U.S.C. § 20507(c)(2)(A), for removals from voter lists in advance of an election. However, in a more recent (June 9) filing in its lawsuit against Georgia, DOJ argued that its voter removal efforts are *not* bound by the NVRA quiet period and may continue up until the election.<sup>12</sup>

Numerous courts have dismissed DOJ’s lawsuits seeking to compel unfettered access to state voter registration lists, calling into question the propriety of DOJ’s actions with respect to the states that have complied with its demands.<sup>13</sup> DOJ has reportedly made conflicting or inaccurate representations during the course of its cases seeking to compel access to states’ voter rolls, raising questions about what DOJ is doing once it accesses voter registration information. For example, a DOJ attorney told a federal court in New Mexico that it was “simply not true” that “the United States wants to engage in [voter] list maintenance.”<sup>14</sup> That contradicts DOJ’s own proposed MOU, which includes a provision requiring states to remove voters after receiving notice from DOJ.<sup>15</sup> Emails from 2025, moreover, suggest that DOJ was planning to share state voter registration data

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<sup>11</sup> Appellants’ Mot. to Expedite, *U.S. v. Weber*, No. 26-1232 (9th Cir., Mar. 3, 2026), Dkt. 12.1 at 2, <https://perma.cc/57HD-FJZV>.

<sup>12</sup> Reply in Supp. of Emergency Ruling, *U.S. v. Raffensberger*, No. 1:26-cv-00485 (N.D. Ga. June 9, 2026), Dkt. No. 123 at 5, at <https://perma.cc/C5EJ-ZWDY>.

<sup>13</sup> See McGrath Decl. ¶ 11 Ex. 7, n.8 (citing Melissa Quinn, *7th and 8th Judges Rebuff Justice Department’s Attempts to Get Voter Rolls, This Time from Maine and Wisconsin*, CBS NEWS (May 21, 2026), <https://perma.cc/Y78N-UU2Z> (“The voting laws, [Chief U.S. District Judge Lance Walker] said, ‘do not contemplate production of the unredacted computerized list to the Attorney General so that he might loom over the shoulder of the state election official to point out and demand the correction of inaccuracies in the list.’”); Kimberlee Kruesi, *Federal Judge Dismisses DOJ Lawsuit Seeking Detailed Information About Rhode Island Voters*, AP (Apr. 17, 2026), <https://perma.cc/6D4M-X7ZH>). (“U.S. District Court Judge Mary McElroy [wrote] that federal law does not permit the U.S. Department of Justice ‘to conduct the kind of fishing expedition it seeks here.’”)

<sup>14</sup> See McGrath Decl. ¶ 4 Ex. 1 n.10 (citing Yunion Rivas, *Trump DOJ Falsely Tells Court it Doesn’t Want Voter Data to Purge Rolls*, DEMOCRACY DOCKET (Apr. 21, 2026), <https://perma.cc/N9JG-A835>).

<sup>15</sup> McGrath Decl. ¶ 12 Ex. 8, n.1 (citing *DOJ MOU*, <https://perma.cc/44KT-HBCS>; see also Cohen, *supra* note 4.

with the Department of Homeland Security (“DHS”) many months before, in late March 2026, DOJ finally admitted in court that it intended to do just that.<sup>16</sup> The 2025 emails also indicate that DOJ has long intended to be opaque with states and the courts about its intended uses of the voter registration information it is demanding: Acting Voting Section chief Eric Neff wrote that DOJ should tell states “nothing more” than “[w]e will use the data in a manner consistent with Federal law,” that the law did not “require [DOJ] to give states information about what we are going to do with the data,” and that “[n]o judge will have authority to limit us beyond a promise of Federal law compliance.”<sup>17</sup>

DOJ’s actions to obtain access to and control over the nation’s voter rolls have taken place in a concerning context. President Trump has said he wants to “nationalize” elections.<sup>18</sup> This call for federal control of elections has reportedly involved the President’s “increased eagerness to leverage the full investigative, prosecutorial and legislative powers of the federal government to bend election mechanics to his will,” including through the “politicized Justice Department [] suing states for private voter data.”<sup>19</sup> Concerns about this effort have been raised across the political spectrum.<sup>20</sup> The President and his Administration’s actions have thus “raise[d] fears” of some “that he will ‘subvert’ [the] midterms.”<sup>21</sup> These concerns are time-sensitive: early voting

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<sup>16</sup> See McGrath Decl. ¶ 11 Ex. 7, n.11 (citing Matt Cohen & Jim Saksa, *Emails Reveal DOJ Officials Planned to Share Voter Rolls with DHS Much Earlier Than They Admitted*, DEMOCRACY DOCKET (Apr. 23, 2026), <https://perma.cc/MK9P-ZY98>).

<sup>17</sup> *Id.* (citing Tierney Sneed, *Internal Documents Shed Light on Trump’s Crusade to Vet State Voter Rolls*, CNN (Apr. 21, 2026), <https://perma.cc/NLT6-UP32>).

<sup>18</sup> *Id.*

<sup>19</sup> See McGrath Decl. ¶ 11 Ex. 7, n.2, (citing Shane Goldmacher & Nick Corasaniti, *Trump’s Push for Election Power Raises Fears He Will ‘Subvert’ Midterms*, N.Y. TIMES (Feb. 25, 2026), <https://perma.cc/M9U8-K4WE>).

<sup>20</sup> Jonathan Shorman, *Some Republican states resist DOJ demand for private voter data*, STATELINE (Sept. 18, 2025), <https://perma.cc/V9ZP-BXF5>.

<sup>21</sup> *Id.*

begins September 18th, and the President issued an executive order directing the federal government to transmit lists to states of citizens “eligible to vote in a Federal election,” 60 days in advance of the election, by September 4.<sup>22</sup> DOJ CRT’s leaders have been involved in implementation of this executive order.<sup>23</sup>

## **II. The Brennan Center Submits FOIA Requests and Seeks Expedited Processing**

The Brennan Center has dedicated substantial resources to tracking DOJ’s efforts to obtain and influence voter registration lists, including by regularly updating a webpage tracking these efforts and by engaging with dozens of media outlets to disseminate information about the issue through more than 100 public reports. Exs. 1-3.<sup>24</sup>

In service of its work to inform the public about DOJ’s actions, on April 28, 2026, Brennan sent DOJ CRT three FOIA requests for key communications and other records that would show the nature and extent of DOJ’s efforts to direct or otherwise influence the removal of voters from registration rolls in the lead up to this year’s elections. The three requests sought:

- (1) All DOJ agreements and MOUs with other entities regarding elections and voting, as well as any lists of voters identified by “any third-party contractor or other federal government agency (such as DHS) for DOJ as voters who are potentially ineligible to vote.” McGrath Exhibit (“Ex”) 3.

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<sup>22</sup> See *Minnesota Election Tools, Deadlines, Dates, Rules and Links*, VOTE.ORG, <https://perma.cc/J7CG-ZAYG> (last visited June 22, 2026); *South Dakota Election Tools, Deadlines, Dates, Rules and Links*, VOTE.ORG, <https://perma.cc/783Z-V9X9>; Ensuring Citizenship Verification and Integrity in Federal Elections, Exec. Order No. 14399, 91 Fed. Reg. 17125 (Mar. 31, 2026).

<sup>23</sup> Jose Pagliery, *Trump is Pushing Forward His Plan for Voter Lists*, NOTUS (May 14, 2026), <https://perma.cc/5BCP-BHXW>.

<sup>24</sup> See McGrath Decl. ¶¶ 4-6, Exs. 1-3, n.4 & 6, citing 27 media reports and *Tracker of Justice Department Requests for Voter Information*, BRENNAN CENTER FOR JUSTICE (updated Apr. 8, 2026), <https://perma.cc/TQM4-WCWK>.

- (2) any “lists of voters CRT or any other federal government component” directed or otherwise identified for removal from state voter rolls, as well as any records reflecting the criteria used in that removal process. Ex. 1;
- (3) Communications between CRT officials and the state governments that appeared to be cooperating with DOJ’s requests for state voter registration lists. Ex. 2.

The requests were limited to records “from August 28, 2025, through the date the search is conducted.” Exs. 1-3. Brennan crafted these requests—for communications with state governments, final agreements and criteria, and factual information—to seek the most important information that is likely subject to meaningful disclosure regardless of FOIA exemptions. Declaration of Eileen O’Connor (“O’Connor Decl.”) ¶¶ 11, 13. The requests do *not* seek intra-executive branch deliberations often deemed to be exempt from disclosure under FOIA’s commonly invoked Exemption 5 for inter- or intra-agency documents. *Id.* ¶¶ 11, 13. For example, DOJ has often made MOUs and contracts like those sought here public.<sup>25</sup> Although Brennan recognizes that sensitive voter information in the requested lists, like Social Security numbers and street addresses, would be appropriately redacted, states usually make registered voters’ names publicly available, so they would be subject to disclosure. *Id.* ¶¶ 12, 14. The requests are intended to gain this basic information about the names of voters DOJ seeks to remove from the rolls and the number of voters affected, the latter of which would be disclosed even by a heavily redacted document.

Brennan sought expedited processing for each FOIA request under two different criteria requiring that the records be produced “as soon as practicable”: (1) due to the “urgency to inform

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<sup>25</sup> See, e.g., *DOJ MOU*, <https://perma.cc/44KT-HBCS>; *FOIA Update: Disclosure of Prices*, DOJ (Jan. 1, 1981) <https://perma.cc/TTX6-3S4Y>.

the public about the Administration’s handling of sensitive voter data pursuant to 5 U.S.C. § 552(a)(6)(E)(v)(II)” (“prong ii”); and (2) because the “requests concern a matter attracting exceptional media interest in which there exist possible government integrity questions that affect public confidence” under DOJ regulation 28 C.F.R. § 16.5 (e)(1)(iv) (“prong iv”). Exs. 1-3.

**A. Brennan’s Prong ii “Urgency to Inform” Expedited Processing Request**

Brennan explained that there was an “urgency to inform the public” warranting prong ii expedited processing because the records “contain information that is desperately needed sufficiently in advance of the federal elections this November to prevent unlawful or improper disenfranchisement of voters.” *Id.* The requests cited dozens of news articles on this topic illustrative of the intense public interest in this matter, and further explained:

Without sufficient transparency, the Administration and DOJ’s potential actions could impact individuals’ rights to vote too close to the election for them to take corrective action. Further, the Administration and DOJ’s actions in advance of the elections could undermine election integrity more broadly if the public is kept in the dark until the elections have been held and it is too late for corrective advocacy or action.

*Id.*

The request further noted that DOJ’s “actions in recent weeks” increased the urgent need to inform the public as DOJ itself sought “expedited briefing schedules in cases demanding voter data access with explicit citation to the coming elections.” *Id.*<sup>26</sup> Brennan also explained that it was primarily engaged in disseminating information for the purpose of prong ii expedition and that it specifically disseminated information about federal demands for state voter rolls. Among other

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<sup>26</sup> See McGrath Decl. ¶¶ 4-6, Exs. 1-3, n.13 (citing Jim Saksa, *DOJ aims to speed up voter roll case as deadline for removing voters looms*, DEMOCRACY DOCKET (Mar. 6, 2026), <https://perma.cc/A83R-8USC>).

evidence, Brennan cited its podcast, extensive online library, hundreds of thousands of social media followers, its website with 3.5 million visitors last year, and its dedicated webpage—regularly updated since August 2025 and visited more 160,000 times—for disseminating information about DOJ’s demands for state voter data. Brennan also noted that “courts have found the Brennan Center meets this standard previously. *Brennan Ctr. for Just. at NYU Sch. of L. v. Dep’t of Com.*, 498 F. Supp. 3d 87, 98 (D.D.C. 2020).” *Id.*<sup>27</sup>

### **B. Brennan’s Prong iv “Widespread and Exceptional Media Interest” Expedited Processing Request**

Brennan separately sought expedited processing under DOJ’s prong iv criteria, explaining that the requests involved “a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence.” Exs. 1-3 (quoting 28 C.F.R. § 16.5(e)(iv)). Brennan provided links to more than two dozen articles concerning the Administration’s efforts to obtain state voter rolls and use that information to direct removal of voters from registration lists, including from The New York Times, The Washington Post, CBS News, and NPR. Exs. 1-3.<sup>28</sup> Brennan noted that the extensive media coverage raised numerous questions about the integrity of government actions, including:

- i. whether DOJ was “attempting to lay the groundwork to cast doubt on the integrity of future election results?”<sup>29</sup>

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<sup>27</sup> McGrath Decl. ¶¶ 4-6, Exs. 1-3. Through six footnotes, n. 1-6, Brennan provided DOJ with extensive evidence of its primary engagement in the dissemination of information, including through its “News & Analysis” page, its “Research & Reports” webpage, its podcast, its social media accounts, 27 links to the more 100 recent media reports citing Brennan’s work on DOJ’s attempts to obtain or control state voter registration lists, and Brennan’s regularly updated tracking page for DOJ’s requests for voter registration information.

<sup>28</sup> See McGrath Decl. ¶¶ 4-6, Exs. 1-3, n. 15-26.

<sup>29</sup> *Id.* at n. 19 (citing e.g. Judd Legum & Rebecca Crosby, *The Federal Database That Could Upend the Midterm Elections*, MOTHER JONES (Apr. 9, 2026), <https://perma.cc/38VS-2UR7>; Barrett & Corasaniti, *supra* note 1) (DOJ voter roll effort “has elicited serious concerns among voting rights experts because it is led by allies of the president . . . It has also raised worries that those same officials could use the data to revive lies of a stolen election, or try to discredit future election results.”)

- ii. whether DOJ could act “in a timeframe that could disenfranchise voters before elections?”<sup>30</sup>
- iii. whether DOJ would “misuse sensitive voter data or make it vulnerable to misuse?”<sup>31</sup>
- iv. whether DOJ would use the voter “data to try to make voting more difficult?”<sup>32</sup>
- v. whether DOJ was “requesting voter data as part of an unlawful or improper effort to ‘nationalize’ or otherwise seize control of state election administration?”<sup>33</sup>
- vi. whether “DOJ has made misstatements to federal courts considering DOJ’s demands for voter data?”<sup>34</sup>
- vii. and whether the voter information was being sought “to target political enemies?”<sup>35</sup>

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<sup>30</sup> *Id* at n. 20 (citing Jonathan Shorman, *In bid for voter data, Trump’s DOJ lays groundwork to undermine confidence in midterms*, STATELINE (Mar. 13, 2026), <https://perma.cc/M22F-GTXE>). (“[T]here could be a false flag and you certainly don’t remove anyone improperly,” Goins said. In Texas, it’s unclear when the Justice Department will provide feedback on the state’s voter list.”)

<sup>31</sup> *Id* at n. 21 (citing e.g. Jude Joffe-Block, *As DOJ prepares to share state voter data with DHS, a key privacy officer resigns*, NPR (Apr. 3, 2026), <https://perma.cc/9ZQ2-ZV9Z>; Kyle Pfannenstiel, *Idaho secretary of state won’t give US Justice Department sensitive voter information*, IDAHO CAPITAL SUN (Mar. 3, 2026), <https://perma.cc/V2UV-Q9D3> (“my concern is for the privacy rights of Idahoans who have registered to vote”); (Patrick Marley & Yvonne Wingett Sanchez, *DOJ hits states with broad requests for voter rolls, election data*, WASH. POST (July 16, 2025), <https://perma.cc/V92R-QULG>) (“Election officials fear the administration could try to build a national file that includes personal information about voters or impose rules that would boot eligible voters from the rolls and make it harder to cast ballots.”)

<sup>32</sup> *Id* at n. 22 (citing e.g. 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/BV9M-NS3N>) (“the Justice Department has been suing other states to get access to their voter rolls. Some state election officials have asked DOJ and DHS to clarify whether one goal is to upload state voter lists to SAVE. . . . Voting experts have warned that known accuracy issues with SAVE will lead to eligible voters like Anthony Nel being wrongly flagged by the system and potentially disenfranchised . . . [one official] is worried about the possibility of voter suppression efforts ahead of midterm elections”).

<sup>33</sup> *Id* at n. 23 (citing e.g. Doug Bock Clark & Jen Fifield, *Inside Trump’s Effort to “Take Over” the Midterm Elections*, PROPUBLICA (Apr. 13, 2026), <https://perma.cc/GDV6-5HUY>; Goldmacher & Corasaniti, *supra* note 19; Isaac Arnsdorf, *Trump, seeking executive power over elections, is urged to declare emergency*, WASH. POST (Feb. 26, 2026), <https://perma.cc/A7RK-XVMA>).

<sup>34</sup> *Id* at n. 24 (citing e.g. Sarah Lynch, *Justice Dept. close to finalizing deal to hand over states’ voter roll data to Homeland Security, sources say*, CBS NEWS (Mar. 26, 2026), <https://perma.cc/8TWJ-7W75> (noting a judge wrote “The Court does not take lightly DOJ’s obfuscation of its true motives in the present matter.”); David Gilbert, *The DOJ Misled a Judge About How It’s Using Voter Roll Data*, WIRED (Apr. 6, 2026), <https://perma.cc/5QTX-USM5>; Legum & Crosby, *supra* note 29 (“But after CBS News asked the DOJ for comment on the agreement, a DOJ attorney acknowledged its true plans to the court . . . The timeline raises serious ethical questions about whether DOJ attorneys knew about the deal with DHS and have intentionally misled the court”).

<sup>35</sup> *Id* at n. 25 (citing e.g. Hayes Brown, *Pam Bondi still can’t seem to explain what the DOJ wants with state voter lists*, MS NOW (Feb. 11, 2026), <https://perma.cc/VPY6-SHGK>) (“The most troubling possibility is that the voter rolls will be fed into an algorithm to cross-reference Social Security numbers and other personal information with party affiliation. Trump has not been shy about wanting to punish Democratic-led states for their defiance.”); Jonathan Shorman, *In bid for voter data, Trump’s DOJ lays groundwork to undermine confidence in midterms*, STATELINE (Mar. 13, 2026), <https://perma.cc/M22F-GTXE> (“Democratic election officials, and some Republicans, have condemned the demands as an invasion of voters’ privacy and have voiced concerns the Trump administration plans

### **C. Brennan Appeals DOJ's Denial of Brennan's Prong iv Expedited Processing Requests and Submits Additional Information**

By letters dated May 14, 2026,<sup>36</sup> DOJ denied Brennan's prong iv requests for expedited processing. DOJ's response offered no reasons other than a summary assertion that Brennan had not met the prong iv standard, writing:

DOJ's Director of Public Affairs at the Office of Public Affairs has determined that your request for expedited processing should be denied because the subject of your request is not of widespread and exceptional media interest and does not pertain to a matter "in which there exist possible questions about the [federal] government's integrity which affect public confidence."

DOJ did not respond to Brennan's request for expedited processing under prong ii.

On May 28, 2026,<sup>37</sup> Brennan administratively appealed DOJ's partial denial of its expedited processing requests (under prong iv for widespread media interest) and also submitted additional information to DOJ to further support its expedited processing requests. Brennan's appeal pointed out that its original expedited processing requests both "cited 29 unique news articles concerning the subject matter of the request . . . across 17 different" media outlets and explained how this coverage contained "numerous questions about the integrity of the government's actions." Exs. 7-9.

The appeal and supplemental information letter also noted that there had been extensive additional news coverage since the expedited processing requests had been filed in April, including coverage concerning additional judicial rulings against the government, public concerns about the

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to use the information to target political opponents"); Jonathan Shorman, *Trump's DOJ offers states confidential deal to remove voters flagged by feds*, STATELINE (Dec. 18, 2025), <https://perma.cc/VS67-3NHR> ("They have also voiced fears that the Trump administration could use the information to target its political enemies").

<sup>36</sup> McGrath Decl. ¶¶ 8-10, Exs. 4-6. Brennan did not receive this response for its third request until May 29, 2026, but the letter denying expedited processing for that request was dated May 14, 2026.

<sup>37</sup> For the third request that was only denied on May 29, 2026, Brennan appealed on June 2, 2026. McGrath Ex. 9.

legality of DOJ's actions, and the release of a May 12, 2026, DOJ Office of Legal Counsel ("OLC") opinion supporting DOJ's acquisition of voter registration lists and sharing of the lists with DHS. Exs. 7-9.<sup>38</sup> Brennan sent this supplemental information supporting expedited processing to both DOJ's designated FOIA appeals office and to CRT. The appeal and supplemental information cited more than two dozen additional reports regarding DOJ efforts to obtain and influence state voter rolls. *Id.* In all, Brennan provided the agency with more than fifty news articles on this matter. Exs. 1-3, 7-9.

#### **D. DOJ Denies Brennan's Appeals and Fails to Issue Determinations and Produce Responsive Records**

On June 8, DOJ denied Brennan's appeals of its prong iv expedited processing denials. Exs. 10-11. DOJ's appeal denials contained no reasoning and offered only an assertion that Brennan failed to meet the regulatory standard for prong iv expedited processing. *Id.* DOJ has not responded to Brennan's prong ii expedited processing requests despite the statutory 10 calendar-day deadline for response. *See* 5 U.S.C. § 552(a)(6)(E)(ii). DOJ also has not informed Brennan of

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<sup>38</sup> McGrath Decl. ¶¶ 11-13, Exs. 7-9, n. 3, 5-8 (citing *e.g.* Quinn, *supra* note 13 ("The voting laws, [Chief U.S. District Judge Lance Walker] said, 'do not contemplate production of the unredacted computerized list to the Attorney General so that he might loom over the shoulder of the state election official to point out and demand the correction of inaccuracies in the list.'"); Gary Grumbach, *Tracking the DOJ's Effort to Get U.S. Voter Registration Data*, NBC (May 7, 2026), <https://perma.cc/43BG-QZ32>; Kathy Boockvar & John Lindback, *States Are Right to Push Back on the DOJ's Pursuit of Voter Data*, STATESCOOP (May 1, 2026), <https://perma.cc/T5R3-MJ3G>; Ned Parker & Peter Eisler, *How Trump is Moving to Control U.S. Elections, One State at a Time*, REUTERS (Apr. 27, 2026), <https://perma.cc/G57K-P8XN>; John Hanna, *Trump Administration Promotes Program to Check Voter Eligibility. Critics Fear a Midterm Purge*, AP (May 17, 2026), <https://perma.cc/GLF9-H4GW>; Luc Cohen, *US Justice Department Drafts Legal Opinion Backing Demands for State Voter Rolls*, REUTERS (May 13, 2026), <https://perma.cc/N6HK-M8QL>; Derek Johnson, *DOJ Releases Legal Rationale for Nationwide Voter Data Collection*, CYBERSCOOP (May 13, 2026), <https://perma.cc/QRS5-RRYR>; Yuniur Rivas, *Trump DOJ Cites Its Own Legal Memo to Defend Voter Roll Demands on Eve of Appeal*, DEMOCRACY DOCKET (May 12, 2026), <https://perma.cc/XB2F-M7M3>; Eric Heisig, *Appeals Court Pushes DOJ to Justify Michigan Voter Roll Demands*, BLOOMBERG LAW (May 13, 2026), <https://perma.cc/TCA6-572D>; Mallory Culhane, *Voter Data Collection Effort's Purpose Queried by Ninth Circuit*, BLOOMBERG LAW (May 19, 2026), <https://perma.cc/6P47-HMTK>).

its determination regarding the requested records and has not produced or withheld any responsive records.

### **E. Brennan Initiates Suit to Compel Expedited Production of Records of National Importance**

Brennan initiated suit to obtain expedited access to the requested records sufficiently in advance of this year's elections to inform the public about DOJ's actions and any recent efforts to remove voters from voter lists. Brennan files the instant motion to obtain that relief, seeking completed production of non-exempt portions of the requested records by September 4, 2026.

### **LEGAL STANDARDS**

The FOIA statute requires agencies to “make available to the public information” by making records “promptly” available upon request. 5 U.S.C. § 552(a). Agencies are required to process FOIA requests on an “expedited” basis when there is a “compelling need” for the information requested or where agency regulations provide additional standards warranting expedition. *Id.* § 552(a)(6)(E).

There is a “compelling need” warranting expedited processing when a FOIA request concerns a matter about which there is an “urgency to inform the public” concerning government activity when made by a requester “primarily engaged in disseminating information.” *Id.* § 552(a)(6)(E)(v)(II); *Bloomberg, L.P. v. FDA*, 500 F. Supp. 2d 371, 377 (S.D.N.Y. 2007). Courts assess whether a request meets the prong ii standard *de novo* on the basis of the record before the agency. *Al-Fayed v. C.I.A.*, 254 F.3d 300, 304-06 (D.C. Cir. 2001).

Under DOJ regulations, expedited processing is separately warranted where a request involves a “matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence.” 28 C.F.R. §

16.5(e)(1)(iv); *Democracy Forward Found. v. DOJ*, 813 F. Supp. 3d 1, 6 (D.D.C. 2025). Courts may offer some deference to authoritative agency interpretations of their regulatory expedited processing criteria, but where “the court has no agency reasoning to which it could defer” for the decision on a particular request, no deference is owed to “*post hoc* arguments” advanced in litigation. *Democracy Forward Found.*, 813 F. Supp. 3d at 9.

When expedited processing is warranted, the agency must produce a determination and non-exempt portions of the requested records “as soon as practicable.” 5 U.S.C. § 552(a)(6)(E)(iii); *Open Soc’y Just. Initiative v. CIA*, 399 F. Supp. 3d 161, 165 (S.D.N.Y. 2019). An agency must respond to a request for expedited processing “within 10 days after the [] request” and failure to do so is subject to judicial review. 5 U.S.C. § 552(a)(6)(E)(ii). When an agency fails to comply with the applicable time-limit provisions in the FOIA statute, a requester “shall be deemed to have exhausted his administrative remedies with respect to such request.” *Id.* § 552(a)(6)(C)(i); *see also Oglesby v. Dep’t of the Army*, 920 F.2d 57, 62 (D.C. Cir. 1990).

The same factors for determining whether a preliminary injunction is warranted apply in FOIA cases as in all others. A plaintiff “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Brennan*, 498 F. Supp. 3d at 96 (quoting *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008)). In a FOIA matter, when “time is necessarily of the essence,” the harm in agency delay is more likely to be irreparable.” *Am. Oversight v. U.S. Dep’t of State*, 414 F. Supp. 3d 182, 186 (D.D.C. 2019) (quoting *Elec. Priv. Info. Ctr. v. DOJ*, 416 F. Supp. 2d 30, 40–41 (D.D.C. 2006)).

## ARGUMENT

### I. Brennan is Likely to Succeed on the Merits

Brennan is overwhelmingly likely to prevail on the merits of its FOIA claims. Brennan can establish to a certainty that it is likely to prevail on its claim that DOJ failed to issue a determination and promptly produce responsive records within its 20 working-day statutory deadline, as that time limit passed a month ago. And Brennan's requests for expedited processing clearly establish Brennan's entitlement to expedited production on the basis of two separate criteria. The administrative record shows Brennan demonstrated an urgent need to inform the public about this matter of national importance, and, separately, that its requests concern a matter of widespread media interest involving possible questions of government integrity that affect public confidence.

#### A. Brennan Is Certain to Prevail on Its Claim That DOJ Has Failed to Provide Determinations by the Statutory Deadline

Brennan will prevail on its claim that DOJ has failed to comply with its statutory deadline for responding to its FOIA requests. Count 1, Compl., ECF 1. Brennan submitted its FOIA requests on April 28, 2026. Exs. 1-3. DOJ failed to issue determinations and to promptly produce responsive records despite the agency's statutory 20 working-day deadline for such a response on May 27, 2026. *See* McGrath Decl. ¶ 7; 5 U.S.C. § 552(a)(6)(A)(i). That deadline for a determination requires DOJ to “actually gather the responsive documents and determine which it will produce and which it will withhold,” and to “promptly” produce the records “within days or a few weeks.” *CREW v. FEC*, 711 F.3d 180, 187-88 (D.C. Cir. 2013). “Accordingly, the statutory deadline for [] responses has now lapsed.” *CREW v. DOJ*, No. CV 25-4426 (CKK), 2026 WL 472589, at \*9 (D.D.C. Feb. 19, 2026). Because DOJ has failed to meet its statutory deadline for responding to Brennan's requests with determinations and prompt production of responsive documents, Brennan

is “certain to succeed on the merits of its claim that [the agency] owes it a determination on its requests.” *Id.* (quoting *Am. Oversight*, 414 F. Supp. 3d at 186).

### **B. Brennan Is Also Likely Prevail on Its Expedited Processing Claim**

Brennan’s requests are also entitled to expedited processing under two independent criteria, and only one is necessary to find expedited processing warranted. Counts 2-3 Compl., ECF 1. Brennan is entitled to expedited processing under both expedited processing prongs ii and iv as there is both 1) an “urgency to inform the public” about DOJ’s actions to obtain and influence state voter lists and Brennan has shown it is “primarily engaged in disseminating information,” and 2) the requests concern “a matter of exceptional and widespread media interest” involving questions of governmental integrity that impact public confidence. Brennan’s requests and supplemental submissions to DOJ detailed the extensive public reporting about DOJ’s actions that demonstrate both the urgent need to inform the public and the widespread media interest in this matter.

#### **1. Brennan is entitled to expedited processing under prong ii as there is an “urgency to inform the public” about DOJ’s actions**

Brennan has shown there is a clear “urgency to inform the public” about the subject of its requests before the coming elections, warranting expedited processing under prong ii. 5 U.S.C. § 552(a)(6)(E)(v)(II). Courts have considered three factors in determining whether a request shows “urgency to inform” warranting expedited processing: whether it concerns “a matter of current exigency to the American public,” whether “delaying a response would compromise a significant recognized interest,” and whether it involves “federal government activity.” *Al-Fayed*, 254 F.3d at

310 (citing 5 U.S.C. § 552(a)(6)(E)(v)(II)); *see also Bloomberg*, 500 F. Supp. 2d at 377-78. All three factors weigh in favor finding expedited processing warranted here.

*First*, DOJ's efforts to obtain all voter registration information nationwide and to direct the removal of voters from lists in advance of this year's elections are "a matter of current exigency to the American public." *CREW v. DOJ*, 2026 WL 472589, at \*1, \*10. Indeed, another court has found that earlier 2025 FOIA requests for DOJ policy documents concerning the same "recent efforts by the [DOJ] to obtain and centralize voter information from election officials throughout the country," concerned a current exigency to the public even where the documents sought were necessarily created further in time from the impending election than is the case here. *Id.* And the continued near daily news reports and litigation developments Brennan highlighted in its requests and supplemental letters, Exs. 1-3; 7-9, show that DOJ's actions are "the subject of a currently unfolding story" further demonstrating this "current exigency" to the public. *Al-Fayed*, 254 F.3d at 310.

*Second*, "a significant recognized interest would be compromised by a delay in disclosure to the public." *Bloomberg*, 500 F. Supp. 2d at 378. Given that DOJ's efforts are "now the subject of public debate and discussion," *Brennan*, 498 F. Supp. 3d at 99, and "[b]ecause the election cycle is inherently time-limited, delaying a response" to Brennan's "FOIA requests would inevitably compromise the public's interest in understanding" the scope and effects of DOJ's actions "before the upcoming elections pass by." *CREW*, 2026 WL 472589, at \*10; *see also Wash. Post v. DHS*, 459 F. Supp. 2d 61, 65 (D.D.C. 2006) (issuing preliminary injunction in FOIA case based on forthcoming congressional elections); *Am. Oversight v. U.S. Dep't of Def.*, No. CV 24-2789 (PLF), 2024 WL 4546844, at \*1 (D.D.C. Oct. 22, 2024) (ordering FOIA response before election without

written opinion). Without the requested records, the public will not be able to petition their representatives (including their state officials who must decide whether to cooperate with DOJ) to alter the impacts of DOJ's efforts on this year's elections after they have passed, thus "delay would compromise the Brennan Center's significant interest in 'inform[ing] the public'" about DOJ's actions in time period where that information will be meaningful. *Brennan*, 498 F. Supp. 3d at 99 (alteration in original). The public Brennan seeks to inform will not know the scope and extent of DOJ's efforts to implement the President's stated desire to "nationalize" control over elections<sup>39</sup> or how many voters may have been impacted without the requested records before the elections have taken place. *Id.* And without the criteria for DOJ's identification of purportedly ineligible voters to be removed and information about the agency or contractor sources of that information, the public Brennan works to inform may not be able to identify any flaws in those processes that could threaten the integrity of the elections. Exs. 1, 3.

*Third*, it is beyond question that Brennan's requests involve "federal government activity." *Al-Fayed*, 254 F.3d at 310.

Courts have found that expedited processing and preliminary injunctions to be warranted even in cases where the records requested were less urgently needed and less directly connected to the matter of public exigency than here. For example, in *Washington Post v. Department of Homeland Security*, the court found expedited processing and a preliminary injunction warranted where the Vice President's visitor logs were at issue because congressional elections were impending. 459 F. Supp. 2d 61, 65 (D.D.C. 2006). And in *Leadership Conference on Civil Rights*

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<sup>39</sup> *Supra* note 17.

*v. Gonzales*, the court found expedited processing warranted where the records related to legislation set to expire more than a *year* from the time of the court's decision. 404 F. Supp. 2d 246, 260 (D.D.C. 2005). Brennan's requests concerning an unprecedented DOJ effort to influence voter rolls nationwide in advance of this year's elections are directly tied to a fast-approaching matter of great public concern.

*Finally*, Brennan's expedited processing requests provided ample information establishing that Brennan "is primarily engaged in dissemination of information." *Brennan*, 498 F. Supp. 3d at 98. Courts and agencies have repeatedly found Brennan meets this standard. *Id.* (including DOJ CRT); *Brennan Ctr. for Just. at N.Y. Univ. Sch. of L. v. U.S. Dep't of State*, 300 F. Supp. 3d 540, 543 (S.D.N.Y. 2018). Here, Brennan's requests provided links to its website with thousands of articles and reports (and noted it received 3.5 million views last year), its podcast, its social media accounts with hundreds of thousands of followers, dozens of media outlets citing Brennan's recent work, and Brennan's dedicated, regularly updated tracking page for DOJ's efforts to obtain state voter data (with 160,000 views from August 2025 to April 2026). Exs. 1-3.

**2. Brennan is also entitled to expedited processing under DOJ's prong iv because its requests involve a matter of widespread media interest containing questions about government integrity**

Brennan's requests concerning DOJ's actions to obtain and influence voter rolls also amply demonstrate that they involve a matter of "'widespread and exceptional' media or public interest" and "that the subject matter raises possible 'questions' about the 'Government's integrity' that 'affect public confidence,'" warranting expedited processing under prong iv. *Brennan*, 498 F. Supp. 3d at 97 (citing 28 C.F.R. § 16.5(e)(1)(iv)).

Courts have found that “only a handful of articles” may suffice to show “widespread and exceptional media interest,” and Brennan here has cited “dozens of articles” from “a range of prominent newspapers” and other “outlets.” *Democracy Forward Found.*, 813 F. Supp. 3d at 11. The “more than fifty recent articles from a variety of sources” cited by Brennan in its requests and supplemental submissions, Exs. 1-3; 7-9, are “considerably more than has sufficed in other cases” to find expedited processing was warranted under prong iv. *Brennan*, 498 F. Supp. 3d at 97-98.

Further, Brennan’s expedited processing requests detailed how these articles raised seven categories of “possible questions about the government’s integrity that affect public confidence.” Exs. 1-3; *supra* Background II.B. These included a plethora of concerns about DOJ’s potentially improper use of the voter data, the possibility that its actions may disenfranchise voters or increase voting difficulty, potentially improper nationalization of election control, indications that DOJ had misled courts about its efforts, and questions about whether DOJ intended to target political opponents. *Id.*<sup>40</sup> The “possible questions” of government integrity raised by reporting “need not suggest any dishonesty or intentional wrongdoing” but instead must only call into question the “soundness” of government action. *Brennan*, 498 F. Supp. 3d at 97. Even if DOJ has ultimately done nothing improper, the extensive reporting on this matter contains far more government

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<sup>40</sup> The coverage of these concerns is voluminous and is summarized in more detail in the Background section. Two cited articles show examples of media reports raising a number of these concerns simultaneously: Barrett & Corasaniti, *supra* note 1 (DOJ voter roll effort “has elicited serious concerns among voting rights experts because it is led by allies of the president, who as recently as this January refused to acknowledge Joseph R. Biden Jr. fairly won the 2020 election. It has also raised worries that those same officials could use the data to revive lies of a stolen election, or try to discredit future election results. . . . Election experts and officials worry what else the Trump administration may try to do with the data.”); Lynch, *supra* note 34 (noting how “CBS News could not determine the precise details of how the [DOJ-DHS] data-sharing arrangement will work” after DOJ obtains state voter information, noting there are “questions of accuracy” including “whether the [voter] data will be shared with other agencies for law enforcement or immigration purposes” and explaining courts’ concerns about DOJ’s actions and candor including where a judge wrote “The Court does not take lightly DOJ’s obfuscation of its true motives in the present matter.”)

integrity concerns than needed to find expedited processing warranted.

Under any standard of review, Brennan is entitled to expedited processing under prong iv. In any case, no deference to DOJ is owed here. DOJ's summary determinations finding that Brennan failed to meet the prong iv standard simply regurgitate the regulation's language and contain no reasoning. Exs. 4-6, 10-11. Thus, "the court has no agency reasoning to which it could defer" other than "*post hoc* arguments" Defendant may now advance in litigation. *Democracy Forward Found.*, 813 F. Supp. 3d at 11.

### **C. Production of the Requested Records by September 4, 2026, Is Warranted and Practicable**

Because of the urgent need for the information contained in the requested records, Brennan is entitled to production of the records sought by a "date certain" sufficiently in advance of the midterm elections such that "the value of the information sought by the Brennan Center to inform the public" will not "be materially lessened or lost." *Brennan*, 498 F. Supp. 3d at 100. It is clear that DOJ is engaged in an unprecedented effort to centralize control over voter registration lists nationwide as a part of the President's stated desire to "nationalize" elections. *See supra* Background I. Understanding DOJ's actions sufficiently in advance of those elections to take corrective action—through, for example, remedying improperly removed voters (if any), advocating to fix deficiencies in DOJ's processes, and petitioning representatives to reverse improper or sweeping nationalization attempts—is critical for the FOIA to serve its purpose as a "structural necessity in a real democracy." *NARA*, 541 U.S. at 172. Production after the elections will be "of little value" for informing the public on a matter of pressing "national importance." *Brennan*, 498 F. Supp. 3d at 99 (quoting *Ctr. for Pub. Integrity v. United States Dep't of Def.*, 411 F. Supp. 3d 5, 12 (D.D.C. 2019)). And the records are also needed sufficiently in advance of the

elections to meaningfully inform public debate while it can still affect the course of events. Voters may need to take action to ensure they can exercise their rights, and citizens would need more than a couple days or weeks to petition their representatives to change course. Early voting begins in mid-September, and the President has directed his administration to send purported lists of eligible voters to the states—an effort that DOJ CRT is reportedly involved in—by September 4. *See supra* Background I. These dates underscore the need for the records with ample time before the end of voting in November.

And processing these records by September 4th is practicable. This will afford the agency—which has the resources to litigate dozens of cases on this matter on an expedited basis—more than 4 months since submission to respond to Brennan’s requests. Other courts have ordered productions on similar or shorter timelines in FOIA cases seeking records of national importance. *See Ctr. for Pub. Integrity*, 411 F. Supp. 3d at 12, 15 (requiring agency to complete processing in less than a month); *Elec. Priv. Info. Ctr. v. U.S. Dep’t of Just.*, 416 F. Supp. 2d 30, 40-42 (D.D.C. 2006) (ordering processing complete within 20 days); *Am. Oversight*, 414 F. Supp. 3d at 188 (processing of narrowed requests less than a month from order); *Brennan*, 300 F. Supp. 3d at 551 (processing to be completed less than a month from order even without preliminary injunction); *Brennan*, 498 F. Supp. 3d at 103 (processing 3 complex requests 2.5 months from order). Here, Brennan seeks high-profile documents like MOUs, contracts, lists identifying voters for removal, and records reflecting DOJ criteria for its efforts, Exs. 1, 3, that are limited in volume and can be identified with reasonable effort by knowledgeable subject matter experts. If Defendants so request, Brennan would promptly engage in good faith with Defendants regarding the searches for its communications request, Ex. 2, to ensure an efficient search that would aid in the practicable

production of responsive records by that date. DOJ likely has information in its sole possession (concerning the most relevant custodians and terminology used) that would enable the parties to productively facilitate expedited production. And this schedule will afford just enough time for Brennan to disseminate information in advance of the midterm elections in a manner that would allow the records to meaningfully inform an “important public debate,” *Brennan*, 498 F. Supp. 3d at 103, and protect the recognized interests of voters and the public in the integrity of the coming elections.

## **II. Brennan—and the Public Interest it Works to Serve—Will be Irreparably Harmed Absent Prompt Production of the Requested Records**

Delaying disclosure of the requested records until after the midterm elections will irreparably harm Brennan’s work in the public interest. A key part of Brennan’s mission is to serve democracy and “ensure that all Americans have an equal voice in our elections.” O’Connor Decl. ¶ 2.<sup>41</sup> Brennan accomplishes this mission through its work to disseminate information—through research, communications, and advocacy—about important developments that affect our democracy and the nature of our democratic elections. O’Connor Decl. ¶¶ 3, 4.<sup>42</sup> Brennan has invested significant resources in the last ten months particularly in understanding, explaining, and disseminating information about DOJ’s efforts to obtain and influence removals from state voter registration lists. O’Connor Decl. ¶¶ 5-8.<sup>43</sup> And the records sought here—including lists of voters DOJ seeks to have removed and communications with states cooperating with its efforts—are

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<sup>41</sup> Brennan Ctr. For Just., Programs, <https://perma.cc/84UL-VGSD>.

<sup>42</sup> *Id.*; Brennan Ctr. For Just., Our Work, <https://perma.cc/9SD4-E7V9>.

<sup>43</sup> Kaylie Martinez-Ochoa, et al., *Tracker of Justice Department Requests for Voter Information*, THE BRENNAN CENTER (June 8, 2026), <https://perma.cc/E8AV-KJQ>.

critical to understanding the impact of DOJ's actions and are unlikely to be substantially exempt from disclosure. *See supra* Background II. Brennan's critical work to carry out its mission will be irreparably harmed if disclosure of these records is delayed until after they can meaningfully inform public debate before this year's midterm elections.

Courts have long acknowledged that "stale information is of little value." *Payne Enters., Inc. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988), and that "where an obligation to disclose exists, plaintiffs may suffer irreparable harm if they are denied access to information that is highly relevant to an ongoing public debate." *Dunlap v. Presidential Advisory Comm'n on Election Integrity*, 286 F. Supp. 3d 96, 110 (D.D.C. 2017) (citing *Wash. Post*, 459 F. Supp. 2d at 75; *Elec. Priv. Info. Ctr.*, 416 F. Supp. 2d at 41). "FOIA was created to foster public awareness, and failure to process FOIA requests in a timely fashion is 'tantamount to denial.'" *Wash. Post*, 459 F. Supp. 2d at 74 (quoting H.R. Rep. No. 93-876, at 6 (1974)). Brennan must have access to the key records requested here that seek to shed light on DOJ's unprecedented actions sufficiently in advance of this year's elections for the organization to meaningfully employ that information in its work. Delayed release months or years later will result in harm to its mission that cannot be remedied.

"Time is clearly of the essence here." *Am. Oversight*, 414 F. Supp. 3d at 186. The "basic purpose of FOIA," is "to ensure an informed citizenry, vital to the functioning of a democratic society," and "to hold the governors accountable to the governed." *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). If elections are allowed to proceed while the public remains in the dark about the nature and extent of DOJ's actions to influence who those "governors" are, the "basic purpose" of FOIA will have been thwarted. *Id.* This is the type of exigent matter of "national importance" that courts have found warrants a preliminary injunction to ensure the release of vital

information to the public to prevent irreparable harm. *Brennan*, 498 F. Supp. 3d at 101 (quoting *Ctr. for Pub. Integrity*, 411 F. Supp. 3d at 12); see also *Wash. Post.*, 459 F. Supp. 2d at 75; *Am. Oversight*, 414 F. Supp. 3d at 186; *Elec. Priv. Info. Ctr.*, 416 F. Supp. 2d at 40-42.

### **III. The Requested Relief Will Not Burden Others' Interests and the Public Interest Strongly Favors the Requested Relief**

In FOIA cases, the balance of equities and the public interest factors “merge” because “the Government is the opposing party.” *Brennan*, 498 F. Supp. 3d at 103 (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). These factors strongly favor preliminary relief, as granting Brennan’s request for expedited production of records of great national concern is plainly in the public interest and will not meaningfully burden others’ interests.

*First*, because DOJ’s “unprecedented” efforts to obtain and control state voter lists “may directly affect the conduct of impending elections throughout the country, there is an unusually strong public interest in timely disclosure.” *CREW v. DOJ*, 2026 WL 472589, at \*12. And requiring DOJ to comply with its FOIA obligations advances the public interest embodied in the statute itself. Although DOJ CRT must also serve other FOIA requesters, relief here—which will result in Brennan’s rapid dissemination of the information to the entire public—will also serve the interests of those other requesters, as in *CREW v. DOJ*, seeking similar information in advance of this year’s elections.

*Second*, the burden on DOJ of processing records in this case pales in comparison to the resources it has voluntarily expended to litigate dozens of cases on an expedited basis to obtain voter data over the objections of most states. Having asserted urgency in obtaining voter registration information in those cases, *supra* Background I, DOJ cannot credibly contend here

that the public lacks an equally urgent interest in understanding how that information is being used before relevant election deadlines pass. Timely disclosure will permit voters, journalists, elections officials, policymakers, and advocacy organizations to evaluate DOJ's actions while they remain ongoing. "In a functioning democracy, an informed electorate always inures to the public benefit." *Ctr. for Pub. Integrity*, 411 F. Supp. 3d at 15.

### CONCLUSION

Brennan respectfully requests that the Court order DOJ to produce all non-exempt portions of these requested records by September 4, 2026, with a *Vaughn* index justifying any withholdings to be provided by September 11, 2026.

Dated: June 25, 2026

Respectfully submitted,

*/s/ Daniel A. McGrath*

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**CERTIFICATE OF COMPLIANCE WITH WORD COUNT**

I certify that this memorandum complies with the 8,750 word limit of Local Rule 4.B. Including footnotes, but excluding tables and signatures, this memorandum contains 8,633 words according to Microsoft Word's word count.

*/s/ Daniel A. McGrath*