

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

UNITED STATES OF AMERICA,

Appellant,

v.

STEVE SIMON, *in his official capacity as Secretary of State for the
State of Minnesota, et al.,*

Appellees.

On Appeal from the U.S. District Court for the District of Minnesota
Honorable Katherine M. Menendez
Civil Action No. 0:25-cv-03761

**BRIEF OF *AMICI CURIAE* CAMPAIGN LEGAL CENTER AND
BRENNAN CENTER FOR JUSTICE IN SUPPORT OF APPELLEES AND
URGING AFFIRMANCE**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, *amicus curiae* Campaign Legal Center states that it is a nonprofit corporation organized under Section 501(c)(3) of the Internal Revenue Code. Campaign Legal Center has no parent corporation, and no publicly held corporation owns ten percent or more of its stock.

In addition, *amicus curiae* Brennan Center for Justice at New York University School of Law states that it is a nonprofit corporation organized under Section 501(c)(3) of the Internal Revenue Code. The Brennan Center has no parent corporation, and no publicly held corporation owns ten percent or more of its stock.

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STATEMENT OF INTEREST OF *AMICI CURIAE*¹

Campaign Legal Center (CLC) is a leading nonpartisan, nonprofit organization that has been working for more than 20 years to advance democracy through law. CLC engages in litigation, policy development, and advocacy to protect voting rights and ensure broad and equal access to the ballot.

The Brennan Center for Justice at New York University School of Law² is a nonprofit, nonpartisan think tank and public-interest law institute that seeks to improve systems of democracy and justice. Since its founding in 1995, the Brennan Center's work has focused extensively on protecting the right to vote using empirical, historical, and legal research. It participates in voting rights and election law cases around the country, both as counsel and *amicus curiae*.

¹ Pursuant to Fed. R. App. P. 29(a)(4)(E), *amici curiae* states that no party's counsel or person except *amici* and their counsel authored this brief or contributed money to fund its preparation or submission. All parties have consented to the filing of this brief pursuant to Fed. R. App. P. 29(a)(2).

² This brief does not purport to convey the position of New York University School of Law.

INTRODUCTION

The Constitution delegates election administration primarily to the states, subject to regulation by Congress. *See* U.S. Const. art. I, § 4. The executive branch has a small role in elections and enjoys only the authority Congress grants it. *See League of United Latin Am. Citizens v. Exec. Off. of the President*, 808 F. Supp. 3d 29, 41–42 (D.D.C. 2025) (*LULAC I*) (permanently enjoining parts of the March 2025 executive order on elections). States’ authority to administer their elections is broad, encompassing rules “not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns.” *Smiley v. Holm*, 285 U.S. 355, 366 (1932); *see also United States v. Gradwell*, 243 U.S. 476, 484 (1917) (“The policy of thus [e]ntrusting the conduct of elections to state laws, administered by state officers, which has prevailed from the foundation of the government to our day . . . was proposed by the makers of the Constitution, and was entered upon advisedly by the people who adopted it . . .”).

The U.S. Department of Justice (DOJ) is attempting to upend the constitutional framework that governs elections by demanding full voter registration lists—including sensitive data like driver’s license and partial social security

numbers—from at least 48 states.³ Most have refused. Appellant has sued election officials in Minnesota and 29 other states, plus the District of Columbia, over such refusals. Every court that has decided the issue has dismissed these complaints.

DOJ’s unprecedented requests for sensitive voter data are beyond its statutory authority and represents an incursion into states’ roles administering elections—a trespass that upsets our constitutional structure surrounding elections. Courts addressing this effort have concluded that DOJ’s demands amount to an “overreach and misuse” of its role in election administration beyond constitutional limits. *United States v. Oregon*, 828 F. Supp. 3d 1092, 1108 (D. Or. 2026); *see also United States v. Weber*, 816 F. Supp. 3d 1168, 1195 (C.D. Cal. 2026) (“[T]he Executive may not unilaterally usurp the authority over elections”). And DOJ’s desire to collect confidential voter information is not about enforcing federal voting statutes at all. Rather, those justifications are pretext for DOJ to overtake the state’s role in elections and aggregate as much data about Americans as possible. Our constitutional system does not authorize DOJ to take those steps.

Amici curiae urge this Court to affirm the decision of the district court dismissing the complaint.

³ Kaylie Martinez-Ochoa, Eileen O’Connor & Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, Brennan Ctr. for Just. (updated Aug. 24, 2026), <https://perma.cc/5NPG-UQRE>.

BACKGROUND

On June 25, 2025, DOJ sent a letter to Minnesota Secretary of State Steve Simon demanding various information and data about Minnesota voters and elections, including how Minnesota complied with certain provisions of the Help America Vote Act (HAVA). The June 2025 Letter specifically demanded that Secretary Simon “send . . . Minnesota’s current statewide voter registration list,” including “active and inactive voters.” App. 50–51; R. Doc. 66-1, at 1–2. On July 25, 2025, the Office of the Secretary of State of Minnesota (SOS), responded to the June 2025 DOJ Letter on behalf of Secretary Simon. App. 53–86; R. Doc. 66-1, at 4–37. The SOS provided substantial information, answering fourteen of fifteen of DOJ’s inquiries. But the SOS did not provide the unredacted State Voter Registration List (SVRL) because the list contains “sensitive personal identifying information on several million individuals,” and asserted that DOJ failed to “identify any legal basis in its June 25 letter that would entitle it to Minnesota’s voter registration list.” App. 59–60; R. Doc. 66-1, at 10–11. On August 13, 2025, DOJ sent the SOS a response to the July 25 SOS Letter asserting that it was entitled to a copy of Minnesota’s full SVRL under HAVA and Section 303 of the Civil Rights Act of 1960 (CRA). App. 87–88; R. Doc. 66-2, at 1–2. On August 21, 2025, the SOS again responded, asserting that neither HAVA nor the CRA supported DOJ’s demand for the SVRL. App. 89–92; R. Doc. 66-2, at 3–6.

Appellant sued about a month later. Its complaint asserts two claims: (1) the United States is entitled to the SVRL under the Civil Rights Act of 1960, and (2) Minnesota is required to provide the SVRL to comply with Section 303 of HAVA. App. 45–47; R. Doc. 1, ¶¶ 45–54.

SUMMARY OF ARGUMENT

This Court should look closely at Appellant’s unprecedented demand for the sensitive voting data of millions of Americans; the record in this case and similar cases across the country show that justifications for the requests are pretextual. Not only are Appellant’s alleged basis and purpose legally inadequate, they are also plainly contrived. This Court should therefore affirm the decision below, on alternative grounds, because Appellant failed to meet the requirements of the CRA including a statement of basis and purpose.

ARGUMENT

While the district court correctly found that Minnesota’s SVRL is not a “record” or “paper” that comes into the Secretary of State’s “possession” and therefore is not a record subject to disclosure to the Attorney General within the meaning of the CRA, Appellant’s demand suffers from two other fatal flaws the district court did not address. The CRA requires that the Attorney General submit a “demand in writing” containing both the “basis” and the “purpose” of the demand. 52 U.S.C. § 20703. Appellant complied with neither requirement. Its asserted

purpose is both pretextual and insufficient, and it provided no factual basis for its demand. Instead, Appellant’s demand, and similar demands it has made across the country, represent an attempted intrusion into the type of election administration determinations the Constitution reserves for the states. Dismissal of its CRA claim was therefore appropriate on those grounds as well.

I. Appellant did not allege a sufficient purpose under the CRA.

Appellant has failed to state a sufficient purpose for its demand for the unredacted voter list. Appellant’s stated purpose is pretextual, list-maintenance oversight is not a valid purpose under the CRA, and access to the unredacted voter list would not serve even Appellant’s claimed purpose.

A. Appellant’s statement of purpose is pretextual.

The record in this case, as well as statements and actions from key government officials, shows that Appellant’s purported “purpose” of assessing compliance with federal law is a pretext. Accordingly, its demand does not meet the requirements of the CRA. “Accepting contrived reasons would defeat the purpose of” judicial review. *Dep’t of Com. v. New York*, 588 U.S. 752, 785 (2019). When agency action is “incongruent with what the record reveals about the agency’s priorities . . . [a court] cannot ignore the disconnect between the decision made and the explanation given.” *Id.* Courts “are not required to exhibit a naiveté from which ordinary citizens are free.” *Id.* (citation modified).

Public actions and statements from federal officials reveal that DOJ is on a “nationwide quest to gather the sensitive, private information of millions of Americans for use in a centralized federal database.” *Weber*, 816 F. Supp. 3d at 1184; *see also Oregon*, 828 F. Supp. 3d at 1106 (same); *United States v. Schmidt*, 835 F. Supp. 3d 697, 699 (W.D. Pa. 2026) (“Public statements from government officials reveal its intentions: to create a nationwide voter-database, for potential weaponization in future elections.”); *United States v. Amore*, 831 F. Supp. 3d 149, 158 (D.R.I. 2026) (rejecting the United States’ effort to “conduct the kind of fishing expedition” it seeks with its demands).

In this expedition, DOJ demanded unredacted voter rolls from nearly every state in the country and filed lawsuits against 30 states and Washington, D.C., showing that it is engaged in a sweeping effort to amass data, rather than targeted assessments of list maintenance practices.⁴ Appellant’s descriptions of its plans for this data have changed over time, revealing their pretextual nature. DOJ’s lawyers admitted at multiple hearings that the United States plans to run voter data through the Systematic Alien Verification for Entitlements (SAVE) program.⁵ App. at

⁴ *See supra* note 3.

⁵ On June 22, 2026, however, a district court in the District of Columbia found that the expansion of SAVE, particularly its inclusion of information from the Social Security Administration, was unlawful. *See League of Women Voters v. U.S. Dep’t of Homeland Sec.*, 835 F. Supp. 3d 79, 95–96 (D.D.C. 2026) (finding the SAVE program expansion had “haphazardly combined and repurposed the private

165:22–23, *United States v. Amore*, No. 26-1665 (1st Cir. July 17, 2026) (“[O]ur intention is to run this against DHS’s SAVE database.”); App. at 123:21–23, *United States v. Bellows*, No. 26-1676 (1st Cir. July 17, 2026) (“To the extent that that data may be run against other databases, again, that’s something that’s been routine”); *see also* *United States v. Benson*, No. 26-1225, 2026 WL 2364306, at *12 (6th Cir. Aug. 14, 2026) (mem.) (Thapar, J., dissenting from denial of reh’g en banc) (“The Attorney General then planned to compare the voter file to federal databases”). Thus, before even receiving any of the information it seeks, Appellant has admitted it will use the data for purposes far afield from assessing compliance with HAVA. *Cf.* Appellant’s Br. at 43 (App. Br.) (arguing that the CRA does not limit the purpose for which Appellant can demand records).

As recently as July 17, the Secretary of the Department Homeland Security (DHS) threatened to withhold funds and possibly prosecute state officials unless they “scrub” their voter rolls in line with DHS’s demands, after apparently running several states’ voter rolls through the SAVE program.⁶ And DHS’s investigations

information of millions of Americans, including citizenship data that they knew to be unreliable”), *stay denied*, No. 26-5243, 2026 WL 2643439, at *1 (D.C. Cir. Sep. 4, 2026). The court also found the federal government had trampled on the privacy rights of American citizens in a manner that threatens the sacred right to vote. *Id.* Thus, at this time DOJ may not run Minnesota’s SVRL through SAVE.

⁶ Nicholas Kerr & Elise Spenner, *System that DHS is urging states to use to assess voter rolls known to return faulty results: reports*, ABC News (July 19, 2026), <https://perma.cc/5YBE-LRW6>.

unit recently put out a request for information to find a contractor who can “secure delivery of publicly available voter registration files and voter history files to support Homeland Security Investigations (HSI) fraud detection and data segmentation activities.”⁷

This activity is in line with recent Executive Orders, which call for the creation of federal voter lists and attempt to establish unconstitutional federal executive oversight over state registration and voting procedures. The President’s March 31, 2026, Executive Order, “Ensuring Citizenship Verification and Integrity in Federal Elections” (the Mail Voting EO), directed DHS to create lists of citizens eligible to vote using information from U.S. Citizenship and Immigration Services, the Social Security Administration, and “other relevant Federal databases.” Exec. Order No. 14,399, 91 Fed. Reg. 17125, 17125, § 2(a) (Mar. 31, 2026).

The Mail Voting EO follows other Executive Orders issued last year that established centralized data-keeping systems and ordered agencies to give “full and prompt access to all unclassified agency records, software systems, and IT systems,” Exec. Order No. 14,158, 90 Fed. Reg. 8441, 8442, §§ 1, 4(b) (Jan. 20, 2025); required federal agencies to “ensure the Federal Government has unfettered access to comprehensive data from all State programs that receive Federal funding,

⁷ See Public Voter File Acquisition and Handling, SAM.gov (Aug. 25, 2026), <https://sam.gov/workspace/contract/opp/c120b053872c4a6984773f8a413cacad/view>.

including, as appropriate, data generated by those programs but maintained in third-party databases,” Exec. Order No. 14,243, 90 Fed. Reg. 13681, 13681, § 3(b), (c) (Mar. 20, 2025); and directed DHS to provide state and local officials access to government systems to verify citizenship and coordinate with the “DOGE Administrator” to “identify unqualified voters registered in the States,” Exec. Order No. 14,248, 90 Fed. Reg. 14005, 14006–07, § 2(b), 2(b)(iii) (Mar. 25, 2025).

These orders make clear that the current data aggregation mission is part of the Administration’s wider effort to centralize Americans’ data. The Administration directed the Internal Revenue Service to provide confidential tax information to Immigration and Customs Enforcement (ICE) until courts found it unlawful. *Ctr. for Taxpayer Rts. v. Internal Revenue Serv.*, 815 F. Supp. 3d 1, 18–20 (D.D.C. 2025), *aff’d*, No. 26-5006, 2026 WL 2635380 (D.C. Cir. Sep. 8, 2026); *Ctr. for Taxpayer Rts. v. Internal Revenue Serv.*, No. 25-457 (CKK), 2026 WL 551105, at *3 (D.D.C. Feb. 26, 2026); *Cnty. Econ. Dev. Ctr. of Se. Mass. v. Bessent*, 818 F. Supp. 3d 228, 234–35 (D. Mass. 2026), *appeal docketed*, No. 26-1329 (1st Cir. Apr. 6, 2026). The Centers for Medicare & Medicaid Services agreed to provide ICE extraordinary levels of detail about Medicaid recipients, including social security numbers, birthdays, sex, phone numbers, localities, ethnicities, and race, until a court order narrowed the available information. *California v. U.S. Dep’t of Health & Hum. Servs.*, No. 25-cv-05536-VC, 2025 WL 3751931, at *3 (N.D. Cal. Dec. 29, 2025).

The Transportation Security Administration reportedly signed an agreement with ICE and has been providing ICE with travelers' information for use in immigration enforcement.⁸

In these ways and others, over the past year and a half, the federal government has regularly reappropriated and centralized information about Americans, engaging in unauthorized “secondary use[s]” of data, “where information that an individual has given to one agency for a specific purpose is later reused by that agency or by another agency or entity for an entirely different purpose without the individual’s consent.”⁹ The administration has only stopped this unlawful seizure of data when ordered to do so by the courts.

Further, as explained in Section I.B, *infra*, acquiring the confidential voter rolls is not necessary for DOJ’s claimed purpose. Appellant’s claim that it is seeking voters’ confidential data solely to pursue oversight for compliance with federal voter registration law is therefore implausible and cannot constitute “*the purpose*” of its demand under the CRA. 52 U.S.C. § 20703 (emphasis added); *Common Council of Alexandria v. Preston*, 12 U.S. 53, 55 (1814) (discussing use of the definite article

⁸ Camilo Montoya-Galvez, *Reports of airport immigration arrests come amid increased TSA-ICE collaboration, sources say*, CBS News (July 29, 2026), <https://perma.cc/36MT-N7AM>.

⁹ Nicole Alvarez, *The Trump Administration Is Using Americans’ Sensitive Data To Build a Digital Watchtower*, Ctr. for Am. Progress (Aug. 25, 2025), <https://perma.cc/LT65-TYUA>.

“the”); *Wilson v. CTW Transp. Servs., Inc.*, 74 F.4th 924, 927 (8th Cir. 2023) (“By including the definite article ‘the’ before ‘delay,’ the statute specifies a *particular* delay[.]”) (emphasis added). DOJ’s efforts to acquire unredacted state voter rolls are, instead, part of the executive branch’s larger data consolidation project.

B. Oversight of a state’s list maintenance procedures is not a valid purpose under the CRA.

Appellant’s effort to use HAVA’s list maintenance requirements as the requisite “purpose” under the CRA also fails because HAVA entrusts list maintenance responsibilities to the states and provides for enforcement in instances of noncompliance.¹⁰ HAVA, among other things, obliges states’ chief election officials to “implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list”; calls for that list to be “defined, maintained, and administered at the State level”; tells “appropriate State or local election official[s] [to] perform list

¹⁰ While Appellant does not explicitly make any arguments under the NVRA in this case and recognizes, as it must, that Minnesota is exempt from the requirements of the National Voter Registration Act (NVRA) and certain related requirements of HAVA, it nonetheless suggests that determining whether a given jurisdiction is complying with the NVRA may constitute a proper purpose under the CRA. App. Br. at 48. For the same reasons Appellant’s arguments regarding HAVA fail, so too do any implicit arguments about the NVRA, which establishes a comprehensive statutory scheme for voter list maintenance and, just as importantly, delegates the administration of that scheme to the states, not the federal government. *See* 52 U.S.C. §§ 20507(a)(4), 20507(c)–(d), 20509. And, like HAVA, the NVRA establishes a limited role for DOJ in enforcing its requirements and does not authorize widespread data grabs. 52 U.S.C. § 20510.

maintenance”; and directs that “[t]he specific choices on the methods of complying . . . shall be left to the discretion of the State[s].” 52 U.S.C. §§ 21083(a)(1)(A), 21083(a)(2), 21085.

HAVA includes a limited role for DOJ: to bring civil enforcement actions for instances of noncompliance. 52 U.S.C. § 21111. It does not give DOJ limitless authority to conduct audits, question removal rates, or access confidential information. “Congress did not confer a general auditing power to the DOJ over state election officials” in HAVA. *United States v. Matthews*, No. 25-cv-3398, 2026 WL 2212877, at *5 (C.D. Ill. July 31, 2026) (citing *West Virginia v. EPA*, 597 U.S. 697, 721–23 (2022)). States alone are responsible for doing such line-by-line maintenance, and the federal government’s role is limited to reviewing the general programs of list maintenance through the enforcement mechanisms that HAVA provides. Appellant cannot establish a legally sufficient purpose under the CRA by claiming to enforce a statute that does not provide the government with the authority it seeks. “If the Attorney General could simply justify his demand with a statement of any purpose whatsoever, the requirement that he specify his purpose . . . would be pointless and it would provide him with unfettered authority to demand voting records.” *Matthews*, 2026 WL 2212877, at *5. That would make the CRA’s “purpose” requirement superfluous and contradict the foundational canon that a court must “give effect, if possible, to every clause and word of [the] statute.”

Fischer v. United States, 603 U.S. 480, 486 (2024) (quoting *Williams v. Taylor*, 529 U.S. 362, 404 (2000)).

Thus, Appellant’s reliance on HAVA undermines its case because that statute limits DOJ’s investigatory authority to the oversight responsibilities Congress delegated to it. HAVA does not grant the federal government unfettered power to obtain confidential voter information. *Contra* App. Br. at 37–38. Notably, the portions of HAVA that Appellant quotes describe only the rules placed on states, and do not provide DOJ with authority to do anything. Neither the Constitution nor Congress has delegated the power to superintend state voter rolls to the executive branch—DOJ gets to choose which permissible purpose to pursue in a Title III demand, but that does not expand DOJ’s authority in ways not otherwise envisioned by federal law. *See Dep’t of Agric. Rural Dev. Rural Hous. Serv. v. Kirtz*, 601 U.S. 42, 63 (2024) (“Where two laws are merely complementary . . . our duty lies not in preferring one over another but in giving effect to both.”).

HAVA also postdates the CRA, meaning that Congress knew the limits of DOJ’s authority under the earlier statute and chose to leave them in place. If Congress wanted to refer to the CRA in HAVA, or otherwise grant DOJ supervisory authority over list maintenance (or any free-ranging authority to gather unredacted SVRLs), it would have. But when Congress specified election administration rules for states to follow in HAVA (and likewise in the NVRA), its silence about the

CRA—and its inclusion of other disclosure mechanisms in the NVRA—undermines the notion that the CRA overrides those newer, more specific statutory schemes.

And even if the CRA *could* be used to demand records for HAVA oversight, Appellant’s asserted purpose for its request of Minnesota’s unredacted SVRL would nonetheless fail because the unredacted SVRL would not enable Appellant to ascertain whether Minnesota engages in “practices that violate the CRA” or HAVA App. Br. at 26. The SOS’s responses to DOJ’s letters in 2025 provide the information needed to ascertain Minnesota’s compliance with HAVA’s list maintenance requirements by explaining how Minnesota conducts list maintenance as required by federal and state law. The SVRL, on the other hand, provides only a snapshot of current registrations, and provides no additional information about how Minnesota operates either its initial registration process or its list-maintenance systems. Partially redacted versions of the voter rolls are publicly available, and Appellant has not said why confidential information is needed. *See Weber*, 816 F. Supp. 3d at 1184 (“And there was no explanation for why unredacted voter files for millions of Californians, an unprecedented request, was necessary for the DOJ’s investigation.”).

DOJ must give a legally valid reason of need that connects to a legally valid result. *See Amore*, 831 F. Supp. 3d at 157; *Oregon*, 828 F. Supp. 3d at 1105; *Matthews*, 2026 WL 2212877, at *5. Exceeding the agency’s authority under HAVA

to get data that does not address Minnesota’s compliance with HAVA—which accords a great deal of discretion in list-maintenance procedures to the states—does not suffice.

C. Appellant’s stated purpose does not satisfy the requirements for a Title III demand because it does not relate to the investigation of violations of individuals’ voting rights.

Appellant’s purported desire to investigate Minnesota’s HAVA compliance is also insufficient because the CRA may only be used to investigate violations of individuals’ voting rights. *Oregon*, 828 F. Supp. 3d at 1105 (“[T]he ‘purpose’ required in a demand for records under Title III must relate to a purpose of investigating violations of individuals’ voting rights.”); *Amore*, 831 F. Supp. 3d at 157–58 (same) (quoting *Oregon*); *United States v. Warner*, No. 2:26-cv-00156, 2026 WL 2018877, at *7 (S.D. W. Va. July 13, 2026) (same) (quoting *Oregon*); *United States v. Bd. of Elections*, No. 1:25-cv-1338 (MAD/PJE), 2026 WL 1999921, at *8 (N.D.N.Y. July 10, 2026); *Schmidt*, 835 F. Supp. 3d at 698-700. Assessing state compliance with routine election administration in the absence of potential voting rights violations is not a legally valid purpose for a Title III demand. *Matthews*, 2026 WL 2212877, at *5.¹¹

¹¹ Appellant’s assertion that the United States has previously used demands under the CRA to “to obtain SVRLs under Title III of the CRA to investigate issues of list maintenance,” App. Br. at 48, is unpersuasive because the cases it cites resulted in settlements. That prior parties chose to settle does not create binding law.

Appellant asserts that limiting demands to the protection of voting rights does not “appear[] anywhere in the statutory text,” App. Br. at 44, but this gets the analysis backwards.¹² A “fundamental canon of statutory construction [is] that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.” *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 320 (2014) (citation modified). “Statutory construction . . . is a holistic endeavor” and a “provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme . . . because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law.” *United Sav. Ass’n of Tex. v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 371 (1988). It would turn the CRA on its head to divorce the purpose requirement from the rest of the statute—which Appellant concedes exists to promote voting rights, not list maintenance, App. Br. at 4—and allow for purposes that have no relation to, and perhaps even

Appellant’s attempt to find recourse in settlements regarding the NVRA, however, underlines the inadequacy of its claims to Minnesota’s SVRL under the CRA, a separate statutory scheme.

¹² Appellant also suggests HAVA compliance protects voting rights by preventing the dilution of votes cast by lawfully registered voters. App. Br. at 46. But it never explains how acquiring Minnesota’s SVRL will protect voters. An unsupported claim that this Title III demand will prevent vote dilution does not meet the purpose requirement. This argument also fails on the basis prong because Appellant has not put forward an iota of evidence that noncitizen voting is warping federal elections in Minnesota, or any reasonable explanation of how someone could be a victim of HAVA non-compliance in such circumstances, and thus does not explain how those provisions of HAVA protect individual voting rights. App. Br. at 47.

undermine, the statutory scheme. Thus, because Appellant’s purported purpose for its CRA demand of Minnesota’s unredacted SVRL was to assess the State’s list maintenance practices—and not to investigate violations of individuals’ voting rights—Appellant cannot use the CRA to obtain the SVRL.

II. Appellant failed to properly state a basis for its demand.

Appellant failed to state a sufficient basis for its Title III demand, and this Court should affirm for that reason as well.

A. “Basis” and “purpose” are distinct requirements under the CRA.

The CRA requires that the Attorney General’s “demand shall contain a statement of the basis and the purpose therefor.” 52 U.S.C. § 20703. The inclusion of the article “the” before each of the words “basis” and “purpose,” as well as the use of the conjunctive “and” between them—the basis *and* the purpose—show that the statute requires the statement to contain a specific basis and, separately, a specific purpose. *See, e.g., United States v. Benson*, 179 F.4th 470, 483 (6th Cir. 2026) (“The government cannot pinpoint a Title III demand with a statement of the basis *and* purpose. . . . [A]ny demand must contain both.”); *United States v. Oliver*, No. 1:25-cv-01193-JCH-JFR, 2026 WL 2031479, at *9 (D.N.M. July 14, 2026) (“Section 20703 requires the Attorney General outline both the discrete factual and the legal motivations underlying the request.”). To require only a generalized statement would

collapse those two requirements into one, a reading that cannot be reconciled with the statutory text.

B. “Basis” means a factual basis.

Title III requires the Attorney General to establish a factual basis for his demand. *See Weber*, 816 F. Supp. 3d at 1182–84 (“The basis is the reasoning provided by the DOJ regarding the evidence behind its investigation of a particular state and specific, articulable facts pointing to the violation of federal law.”); *contra* App. Br. at 39–40. Every court to consider the issue has found the same. *See, e.g., Oliver*, 2026 WL 2031479, at *9; *Amore*, 831 F. Supp. 3d at 156–57; *United States v. Galvin*, 830 F. Supp. 3d 122, 129–30 (D. Mass. 2026); *Oregon*, 828 F. Supp. 3d at 1104; *United States v. Scanlan*, No. 25-cv-371-JL, 2026 WL 1864054, at *8 (D.N.H. June 29, 2026); *Schmidt*, 835 F. Supp. 3d at 698; *Matthews*, 2026 WL 2212877, at *4. At a minimum, the “basis” requirement compels DOJ to describe factual information in its possession that tends to show the law has been violated. *See Kennedy v. Bruce*, 298 F.2d 860, 861 (5th Cir. 1962); *Amore*, 831 F. Supp. 3d at 156–57; *see also Basis*, Black’s Law Dictionary 161 (8th ed. 2004) (“an underlying condition”).

The requirement that DOJ state a factual basis for a record demand is a meaningful safeguard that Appellant may not flout. *See Weber*, 816 F. Supp. 3d at 1184; *Oregon*, 828 F. Supp. 3d at 1102–03. It ensures that the federal government

uses the CRA as a tool to conduct properly predicated investigations rather than a blank check to get wide swaths of documents about voters beyond its statutory authority. *See In re Gordon*, 218 F. Supp. 826, 827 (S.D. Miss. 1963) (“[T]his Act merely provides for a limited exploration and discovery as to the validity of the election processes employed and pursued in such Federal elections after May 6, 1960.”). Failure to meet this standard is fatal to Appellant’s CRA claim.

C. Appellant’s demand for Minnesota’s unredacted SVRL contained an insufficient statement of basis.

DOJ did not provide sufficient factual basis in its letters and claimed only that it needs the unredacted SVRL to assess Minnesota’s compliance with HAVA. App. Br. at 40–41.

Appellant’s claimed basis—to determine if Minnesota is complying with HAVA’s list-maintenance requirements—is no basis at all. In both its 2025 letters, the Minnesota SOS thoroughly explained Minnesota’s list maintenance procedures, including how the state addresses voters who are inactive, move, die, are ineligible due to a conviction, or adjudged legally incompetent to vote, as well as how it handles duplicate and online voter registrations. *See* App. 55–59; R. Doc. 66-1, at 3–7. Instead of attempting to explain why those explanations were insufficient, Appellant sued for the full SVRL, again without explanation as to how that will assist in any subsequent analysis. If the Attorney General could compel election records from states anytime he had an open-ended question about compliance and

needed no factual underpinning for his demands, then the CRA's reach would be limitless, and its basis requirement would be meaningless. That would upend the limited oversight scheme Congress created. *See Matthews*, 2026 WL 2212877, at *5 (“Title III requires a factual basis for the demand which could include the evidence behind the Attorney General’s investigation into the state’s suspected noncompliance with federal law.”).

Appellant’s conclusory statements of basis contrast with the lawful demands for election records by the Attorney General in the 1960s. In *Kennedy v. Lynd*, the demand referenced information “tending to show that distinctions on the basis of race or color have been made with respect to registration and voting.” 306 F.2d 222, 229 n.6 (5th Cir. 1962); *see also Kennedy v. Bruce*, 298 F.2d at 861 (same). “These cases also show that the DOJ wrote statutorily compliant demand letters sixty years ago.” *Oliver*, 2026 WL 2031479, at *8; *see also Weber*, 816 F. Supp. 3d at 1182–83 (“In the past, the DOJ has routinely stated . . . [a] basis related to alleged civil rights violations”). The Attorney General sixty years ago had to have evidence of racial discrimination to acquire election records, and Appellant must present a similarly sufficient factual basis here. It cannot.

III. Appellant’s demand undermines authority over elections that the Constitution reserves for Congress and the States.

The Constitution “assign[s] no role at all to the President” in election administration. *League of United Latin Am. Citizens v. Exec. Off. of the President*,

818 F. Supp. 3d 34, 53 (D.D.C. 2026) (*LULAC II*), *judgment entered*, No. 25-cv-0946 (CKK), 2026 WL 880056 (D.D.C. Mar. 31, 2026). Under the Constitution, the states and Congress share responsibilities for regulating election administration. *See* U.S. Const. art. I, § 2, cl. 1; U.S. Const. art. I, § 4, cl. 1. The notion that the executive would have the power to regulate federal elections “does not appear to have crossed the Framers’ minds.” *LULAC I*, 808 F. Supp. 3d at 45 (citing *The Federalist* No. 59 (Alexander Hamilton)); *see also* Debate in Massachusetts Ratifying Convention, in 2 *The Founders’ Constitution* 255 (Philip B. Kurland & Ralph Lerner eds., 1987) (“I know of but two bodies wherein [the power to regulate federal elections] can be lodged—the legislatures of the several states, and the general Congress.” (statement of Caleb Strong)). “Congress, not the President, has the ultimate constitutional authority over elections.” *California v. Trump*, 786 F. Supp. 3d 359, 381 (D. Mass. 2025); *see also* *DSCC v. Trump*, No. 26-5193, 2026 WL 2168617, at *5 (D.C. Cir. July 28, 2026) (*per curiam*) (finding that the Constitution vests the President with “no express authority over the conduct of elections”).

Although the president has no constitutional role in elections, this administration has attempted to use the collection and analysis of data to exert authority over election administration. In the first half-dozen complaints in these thirty cases seeking unredacted voter rolls, Appellant began by identifying the President’s March 2025 elections executive order (EO) as the cases’ catalyst.

Notably, since commencing this action, Appellant has ceased doing so. *Compare*, e.g., App. 33; R. Doc. 1, at 1 (quoting Elections EO), Compl. at 2–3, *United States v. Weber*, No. 2:25-cv-09149 (C.D. Cal. Sep. 25, 2025), Dkt. No. 1, *and* Compl. at 1, *United States v. Pennsylvania*, No. 2:25-cv-01481 (W.D. Pa. Sep. 25, 2025), Dkt. No. 1, *with* Compl. at 1–3, *United States v. Wisc. Elections Comm’n*, No. 3:25-cv-01036 (W.D. Wis. Dec. 18, 2025), Dkt. No. 1 (solely discussing CRA), *and* Compl. at 1–3, *United States v. Matthews*, No. 3:25-cv-03398 (C.D. Ill. Dec. 18, 2025), Dkt. No. 1 (same). That shift is likely due to court decisions concluding that multiple provisions of the Elections EO “are inconsistent with the constitutional separation of powers and cannot lawfully be implemented.” *LULAC II*, 818 F. Supp. 3d at 53 (permanently enjoining provisions purporting to impose new requirements for verifying citizenship for people registering to vote or applying for absentee ballots). Appellant’s abandonment of its argument regarding the Elections EO further demonstrates the faulty premise and unconstitutionality of its actions.

Although courts had already declared the Elections EO invalid on separation-of-powers grounds, in early February 2026, the President called for a “take over” of voting procedures in many states. The Mail Voting EO illustrates a dogged attempt to put these words into action, which courts have continued to hold is

unconstitutional.¹³ *See California v. Trump*, No. 25-cv-10810-DJC, 2026 WL 1826535 (D. Mass. June 24, 2026) (enjoining provisions involving USPS and the creation of citizenship lists as ultra vires and a violation of the separation of powers). This is an escalation, but not a change in position for this President, who in August 2025 declared that states must do “what the Federal Government, as represented by the President of the United States, tells them” as related to elections.¹⁴ By its own public accounts, the executive’s real purpose for collecting sensitive voter data from Minnesota and other states is to disrupt and take over election processes. Specifically, Appellant seeks to supplant Minnesota’s role in list maintenance by substituting its own judgment and process, which violates the constitutional and statutory assignments of election administration duties. *Weber*, 816 F. Supp. 3d at 1175–76. Appellant’s role in enforcing federal statutes does not permit them to engage in list maintenance, but only to ensure that the states comply with federal laws. But, as is clear from its repeated statements, DOJ plans to conduct its own analyses to identify voters it deems should be removed from the rolls. If granted, Appellant’s demand could make voters less likely to register and turn out to vote. *See Weber*, 816 F. Supp. 3d at 1196. “This risk threatens the right to vote which is

¹³ *See* Erica L. Green, Michael Gold & Robert Jimison, *Trump Repeats Call to ‘Nationalize’ Elections, as White House Walks It Back*, N.Y. Times (Feb. 3, 2026), <https://www.nytimes.com/2026/02/03/us/politics/trump-save-act-elections.html>.

¹⁴ *See* Donald J. Trump (@realDonaldTrump), TruthSocial.com (Aug. 18, 2025), <https://perma.cc/R3KM-525Z>.

the cornerstone of American democracy.” *Id.*; *see also Schmidt*, 836 F. Supp. 3d at 699 (“What, a reader rhetorically may ask, could possibly go wrong?”). As with its other unlawful uses of information, Appellant’s goal in obtaining and consolidating massive amounts of voter data is to encroach on the constitutionally mandated role of states in election administration.

CONCLUSION

For the reasons stated above, *amici* Campaign Legal Center and the Brennan Center for Justice respectfully request the Court affirm the district court’s dismissal of the Complaint.

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This brief complies with the type-volume limitation of Fed. R. App. P. 32 because this brief contains 6,042 words, excluding the parts of the brief exempted by Rule 32(f).

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Dated: September 11, 2026

/s/ Sejal Jhaveri
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I hereby certify that on September 11, 2026, I electronically filed a copy of the foregoing Brief *Amici Curiae* using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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