

No. 26-2060

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

v.

NEW YORK STATE BOARD OF ELECTIONS, KRISTEN ZEBROWSKI
STAVISKY, in her official capacity as Co-Executive Director of the Board of
Elections of the State of New York, RAYMOND J. RILEY III, in his official
capacity as Co-Executive Director of the Board of Elections of the State of New
York, PETER S. KOSINSKI, in his official capacity as Commissioner of the Board
of Elections of the State of New York, HENRY T. BERGER, in his official
capacity as Commissioner of the Board of Elections of the State of New York,
ANTHONY J. CASALE, in his official capacity as Commissioner of the Board of
Elections of the State of New York, ESSMA BAGNUOLA, in her official capacity
as Commissioner of the Board of Elections of the State of New York, STATE OF
NEW YORK,

Defendants-Appellees,

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED
PEOPLE, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE NEW YORK STATE CONFERENCE, LEAGUE OF
WOMEN VOTERS OF NEW YORK STATE,

Intervenor-Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

**INTERVENOR-DEFENDANT-APPELLEE LEAGUE OF WOMEN
VOTERS OF NEW YORK STATE'S BRIEF**

(See inside cover for counsel)

Patrick Berry
Brennan Center for Justice
at NYU School of Law
120 Broadway, Suite 1750
Tel: (646) 292-8310
berryp@brennan.law.nyu.edu

Daniel S. Lenz
Katherine Hamilton
Campaign Legal Center
1333 New Hampshire Ave. NW
Suite 300
Washington, DC 20036
Tel: (202) 736-2200
dlenz@campaignlegalcenter.org
khamilton@campaignlegalcenter.org

*Counsel for Intervenor-Defendant-Appellee League of Women Voters of New York
State*

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, Intervenor-Defendant-Appellee the League of Women Voters of New York State certifies that it is a non-profit corporation with no parent corporation, and that no publicly held company owns any interest in it.

TABLE OF CONTENTS

CORPORATE DISCLOSURE STATEMENT	i
TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES.....	v
INTRODUCTION	1
STATEMENT OF THE ISSUES	2
STATEMENT OF THE CASE.....	2
A. New York’s SVRL.....	2
B. Background and procedural history.....	3
1. June 2025: DOJ invokes Help America Vote Act (HAVA) to get data.	3
2. August 14, 2025: DOJ cites new laws for its demand.	4
3. August 29, 2025: New York provides information about its public SVRL and answers DOJ’s questions.....	5
4. Proceedings in the district court.....	7
SUMMARY OF THE ARGUMENT	10
STANDARD OF REVIEW	10
ARGUMENT	11
I. Appellant is not entitled to a curtailed, “special statutory proceeding” on any of its claims, and application of Rule 12 standards was appropriate	11
A. The Federal Rules of Civil Procedure apply here, as courts have repeatedly found in identical cases.	12
II. DOJ failed to assert a sufficient purpose or basis for its demand under the CRA, an alternative ground to affirm dismissal of the complaint.	17
A. DOJ failed to establish a basis for its demand.	17

i.	“Basis” means a factual basis.....	18
ii.	Basis and purpose are distinct requirements under the CRA.....	20
iii.	DOJ’s demand for the NYSVoter List contained no statement of basis.....	21
B.	DOJ failed to state a sufficient purpose for its demand.....	23
i.	DOJ’s stated purpose for its demand for the NYSVoter List does not satisfy CRA requirements because it does not relate to violations of individuals’ voting rights.	23
ii.	Review of a state’s list maintenance procedures is not a valid purpose under the CRA.	27
iii.	Receiving the unredacted NYSVoter List would not serve Appellant’s claimed purpose of enforcing the NVRA and HAVA.....	30
iv.	Appellant’s statement of purpose is pretextual.	33
III.	The CRA does not authorize DOJ to demand the NYSVoter List.	39
A.	The plain language of the CRA supports the district court’s holding.....	40
B.	The legislative history and purpose of the CRA also support a holding that the SVRL cannot be the subject of a Title III demand.....	47
C.	Title III does not create an officer-specific duty.	50
D.	The <i>Benson</i> decision and subsequent opinions respecting denial of rehearing en banc refute rather than support, Appellant’s position.	52
IV.	New York law protecting voters’ confidential information is not preempted.	53

V. The district court properly dismissed Appellant’s other claims, which Appellant does not dispute.	54
CONCLUSION	57
CERTIFICATE OF COMPLIANCE	58
CERTIFICATE OF SERVICE	59

TABLE OF AUTHORITIES

Cases	Pages
<i>Abramski v. United States</i> , 573 U.S. 169 (2014)	25
<i>Adirondack Transit Lines, Inc. v. United Transportation Union Local 1582</i> , 305 F.3d 82 (2d Cir. 2002)	17
<i>Allen v. Milligan</i> , 599 U.S. 1 (2023)	48
<i>American Bus Association v. Slater</i> , 231 F.3d 1 (D.C. Cir. 2000)	20
<i>Arrechea-Martinez v. Holder</i> , 541 F. App'x 135 (2d Cir. 2013) (summary order) .	54
<i>ATSI Communications, Inc. v. Shaar Fund, Ltd.</i> , 493 F.3d 87 (2d Cir. 2007)	11
<i>Beason v. United Technologies Corporation</i> , 337 F.3d 271 (2d Cir. 2003)	51
<i>Becker v. United States</i> , 451 U.S. 1306 (1981)	15
<i>Bell Atlantic Corp. v. Twombly</i> , 550 U.S. 544 (2007)	10, 11
<i>Bell v. Reno</i> , 218 F.3d 86 (2d Cir. 2000)	41, 45
<i>Bryan v. United States</i> , 524 U.S. 184 (1998)	45
<i>California v. United States Department of Health & Human Services</i> , No. 25-cv-05536-VC, 2025 WL 3751931 (N.D. Cal. Dec. 29, 2025)	37
<i>Center for Taxpayer Rights v. Internal Revenue Service</i> , 815 F. Supp. 3d 1 (D.D.C. 2025)	36
<i>Center for Taxpayer Rights v. Internal Revenue Service</i> , No. 25-0457 (CKK), 2026 WL 551105 (D.D.C. Feb. 26, 2026)	36
<i>Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.</i> , 511 U.S. 164 (1994)	22
<i>Circuit City Stores, Inc. v. Adams</i> , 532 U.S. 105 (2001)	13
<i>Common Cause/New York v. Brehm</i> , 432 F. Supp. 3d 285 (S.D.N.Y. 2020)	31

<i>Community Economic Development Center of Southeastern Massachusetts v. Bessent</i> , 818 F. Supp. 3d 228 (D. Mass. 2026).....	36
<i>Corley v. United States</i> , 556 U.S. 303 (2009).....	25
<i>Cortec Industries, Inc. v. Sum Holding L.P.</i> , 949 F.2d 42 (2d Cir. 1991).....	11
<i>Department of Agriculture Rural Development Rural Housing Service v. Kirtz</i> , 601 U.S. 42 (2024).....	29
<i>Department of Commerce v. New York</i> , 588 U.S. 752 (2019)	33
<i>Department of Homeland Security v. League of Women Voters</i> , No. 26A308, 2026 WL 2879700 (U.S. Sep. 25, 2026).....	34
<i>Donaldson v. United States</i> , 400 U.S. 517 (1971)	16
<i>Epic Systems Corporation v. Lewis</i> , 584 U.S. 497 (2018).....	44
<i>Fernandez v. State</i> , 992 N.Y.S.2d 158 (N.Y. Ct. Cl. 2014).....	53
<i>Fischer v. United States</i> , 603 U.S. 480 (2024).....	29
<i>Folger Adam Co. v. PMI Industries, Inc.</i> , 938 F.2d 1529 (2d Cir. 1991)	44
<i>Garcia-Bengochea v. Carnival Corporation</i> , 57 F.4th 916 (11th Cir. 2023).....	47
<i>Hafer v. Melo</i> , 502 U.S. 21 (1991).....	50
<i>Huddleston v. United States</i> , 415 U.S. 814 (1974)	47
<i>Husted v. A. Philip Randolph Institute</i> , 584 U.S. 756 (2018).....	30
<i>In re Does</i> , 688 F.2d 144 (2d Cir. 1982)	15, 16, 24
<i>In re Gordon</i> , 218 F. Supp. 826 (S.D. Miss. 1963).....	18
<i>In re Seelig v. Sielaff</i> , 607 N.Y.S.2d 300 (N.Y. App. Div. 1994)	53
<i>Jeffery v. City of New York</i> , 113 F.4th 176 (2d Cir. 2024)	38
<i>Kajmowicz v. Whitaker</i> , 42 F.4th 138 (3d Cir. 2022).....	50

<i>Kennedy v. Bruce</i> , 298 F.2d 860 (5th Cir. 1962).....	21, 22
<i>Kennedy v. Lynd</i> , 306 F.2d 222 (5th Cir. 1962) (<i>Lynd II</i>)	14, 15, 22, 43
<i>Kennedy v. Owen</i> , 321 F.2d 116 (5th Cir. 1963)	42
<i>League of Women Voters v. United States Department of Homeland Security</i> , 835 F. Supp. 3d 79 (D.D.C. 2026)	34
<i>Leytman v. United States of Homeland Security Transportation Security Administration</i> , 804 F. App’x 78 (2d Cir. 2020) (summary order).....	17
<i>Morales v. Trans World Airlines, Inc.</i> , 504 U.S. 374 (1992)	13
<i>National Labor Relations Board v. American Medical Response, Inc.</i> , 438 F.3d 188 (2d Cir. 2006)	24
<i>National Railroad Passenger Corporation v. McDonald</i> , 779 F.3d 97 (2d Cir. 2015)	17
<i>Pennsylvania State Conference of NAACP Branches v. Secretary Commonwealth of Pennsylvania</i> , 97 F.4th 120 (3d Cir. 2024)	48
<i>Project Vote/Voting for America, Inc. v. Long</i> , 682 F.3d 331 (4th Cir. 2012).....	54
<i>Public Interest Legal Foundation, Inc. v. Bellows</i> , 92 F.4th 36 (1st Cir. 2024)	45, 55, 56
<i>Public Interest Legal Foundation, Inc. v. Nago</i> , 174 F.4th 664 (9th Cir. 2026)..	9, 55
<i>Public Interest Legal Foundation, Inc. v. North Carolina State Board of Elections</i> , 996 F.3d 257 (4th Cir. 2021)	54, 56
<i>Public Interest Legal Foundation v. Benson</i> , 136 F.4th 613 (6th Cir. 2025).....	31
<i>Public Interest Legal Foundation v. Knapp</i> , 749 F. Supp. 3d 563 (D.S.C. 2024) ...	56
<i>RadLAX Gateway Hotel, LLC v. Amalgamated Bank</i> , 566 U.S. 639 (2012).....	28
<i>South Carolina v. Katzenbach</i> , 383 U.S. 301 (1966)	48
<i>Star Athletica, L.L.C. v. Varsity Brands, Inc.</i> , 580 U.S. 405 (2017)	22

<i>Sullivan v. Summers</i> , 769 F. Supp. 3d 455 (D. Md. 2025).....	56
<i>True the Vote v. Hosemann</i> , 43 F. Supp. 3d 693 (S.D. Miss. 2014).....	56
<i>United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.</i> , 484 U.S. 365 (1988).....	24
<i>United States Department of Justice v. Tax Analysts</i> , 492 U.S. 136 (1989).....	42, 43
<i>United States v. Amore</i> , 831 F. Supp. 3d 149 (D.R.I. 2026)	13, 18, 23, 32, 34
<i>United States v. Bellows</i> , 834 F. Supp. 3d 113 (D. Me. 2026).....	49, 50
<i>United States v. Benson</i> , 179 F.4th 470 (6th Cir. 2026) (<i>Benson II</i>)	7, 13, 20, 25, 40-42, 46, 51
<i>United States v. Benson</i> , 187 F.4th 462 (6th Cir. 2026) (<i>Benson III</i>)	35, 42, 43, 52, 53
<i>United States v. Benson</i> , 819 F. Supp. 3d 753 (W.D. Mich. 2026) (<i>Benson I</i>)	7, 46
<i>United States v. Clarke</i> , 573 U.S. 248 (2014).....	24
<i>United States v. Copeland Hanzas</i> , No. 2:25-cv-00903, 2026 WL 2754349 (D. Vt. Sep. 17, 2026).....	45
<i>United States v. Evans</i> , No. 25-cv-4403 (RDM), 2026 WL 2267774 (D.D.C. Aug. 6, 2026).....	47, 48
<i>United States v. Fontes</i> , 832 F. Supp. 3d 944 (D. Ariz. 2026).....	46
<i>United States v. Galvin</i> , 830 F. Supp. 3d 122 (D. Mass. 2026)	18, 19, 21
<i>United States v. Lee</i> , 793 F.3d 680 (6th Cir. 2015).....	52
<i>United States v. Lynd</i> , 301 F.2d 818 (5th Cir. 1962) (<i>Lynd I</i>)	19
<i>United States v. Matthews</i> , No. 25-cv-3398, 2026 WL 2212877 (C.D. Ill. July 31, 2026).....	19, 24, 28, 29, 32, 38
<i>United States v. Oliver</i> , No. 1:25-cv-1193, 2026 WL 2031479 (D.N.M. July 15, 2026).....	18, 20, 22

<i>United States v. Oregon</i> , 828 F. Supp. 3d 1092 (D. Or. 2026)	
.....	13, 18, 23, 32, 33, 38, 56
<i>United States v. Powell</i> , 379 U.S. 48 (1964).....	12, 15
<i>United States v. Scanlan</i> , No. 25-cv-371, 2026 WL 1864054 (D.N.H. June 29, 2026).....	7, 19
<i>United States v. Schmidt</i> , 835 F. Supp. 3d 697 (W.D. Pa. 2026)	7, 19, 23, 33, 34
<i>United States v. Simon</i> , No. 25-cv-3761, 2026 WL 2389778 (D. Minn. Aug. 17, 2026).....	7, 13
<i>United States v. Stanchich</i> , 550 F.2d 1294 (2d Cir. 1977)	38
<i>United States v. Thomas</i> , No. 3:26-cv-21, 2026 WL 2070437 (D. Conn. July 17, 2026).....	13
<i>United States v. Warner</i> , No. 2:26-cv-00156, 2026 WL 2018877 (S.D. W. Va. July 13, 2026)	23, 32
<i>United States v. Weber</i> , 816 F. Supp. 3d 1168 (C.D. Cal. 2026)	7, 13, 18, 19, 22, 31, 33, 38
<i>United States v. Will</i> , 671 F.2d 963 (6th Cir. 1982)	15
<i>United States, ex rel. Polansky v. Executive Health Resources, Inc.</i> , 599 U.S. 419 (2023).....	12
<i>Utility Air Regulatory Group v. E.P.A.</i> , 573 U.S. 302 (2014).....	24
<i>Voter Reference Foundation, LLC v. Torrez</i> , 160 F.4th 1068 (10th Cir. 2025).....	56
Statutes	
10 Ill. Comp. Stat. 5/1A-25(a)	51
28 U.S.C. § 2072(b)	12
52 U.S.C. § 20507	55
52 U.S.C. § 20507(a)(4).....	27, 30, 44

52 U.S.C. § 20507(c)-(d)	27
52 U.S.C. § 20507(i)	9
52 U.S.C. § 20507(i)(1)	28, 46
52 U.S.C. § 20509	27
52 U.S.C. § 20510	27
52 U.S.C. § 20701	39, 41, 47, 50
52 U.S.C. § 20702	43
52 U.S.C. § 20703	17, 20, 23
52 U.S.C. § 20705	13
52 U.S.C. § 21083(a)(1)(A)	27, 31
52 U.S.C. § 21083(a)(2)	27
52 U.S.C. § 21083(a)(2)(A)(ii)	44
52 U.S.C. § 21085	27
52 U.S.C. § 21111	27
N.Y. Elec. Law § 3-100(1)	2
N.Y. Elec. Law § 3-100(1)-(2)	2
N.Y. Elec. Law § 3-100(3)	2
N.Y. Elec. Law § 3-220(1)	53, 57
N.Y. Elec. Law § 5-400(2)(d)	3, 44
N.Y. Elec. Law § 5-508	53
N.Y. Elec. Law § 5-614	2, 51

N.Y. Elec. Law § 5-614(1)	2, 44
N.Y. Elec. Law § 5-614(2)	3, 40
N.Y. Elec. Law § 5-614(3)(a)-(b).....	3
N.Y. Elec. Law § 5-614(4)-(8)	3, 44
N.Y. Elec. Law § 5-614(14)	3, 44
N.Y. Elec. Law § 5-704.....	44
N.Y. Elec. Law § 5-708.....	3, 44
N.Y. Pub. Off. Law § 96-a	53, 57
N.Y. Pub. Off. Law § 96-a(2).....	16
S.C. Code § 7-5-186.....	51
Wis. Stat. § 5.05(15)	51

Regulations

N.Y. Comp. Codes R. & Regs. tit. 9, § 6217.8	3, 44
N.Y. Comp. Codes R. & Regs. tit. 9, § 6217.10(d).....	3, 44

Rules

Fed. R. Civ. P. 1	11, 12
-------------------------	--------

Other Authorities

<i>Alter</i> , Merriam-Webster.com, https://www.merriam-webster.com/dictionary/alter (last visited Sep. 28, 2026).....	44
Appendix, <i>United States v. Amore</i> , No. 26-1665 (1st Cir. July 17, 2026).....	34
Appendix, <i>United States v. Bellows</i> , No. 26-1676 (1st Cir. July 17, 2026).....	34

August 14, 2025 Letter to Michigan Secretary of State, <i>United States v. Benson</i> , No. 1:25-cv-01148 (W.D. Mich. Nov. 26, 2025), Dkt. 39-4	5
<i>Basis</i> , Black’s Law Dictionary (4th ed. 1951)	21
Brief for Historians J. Morgan Kousser <i>et al.</i> as <i>Amici Curiae</i> , <i>United States v. Benson</i> , No. 26-1225 (6th Cir. Apr. 20, 2026), Dkt. 72.....	49
Brief for the United States as <i>Amicus Curiae</i> , <i>Public Interest Legal Foundation, Inc. v. Bellows</i> , No. 23-1361 (1st Cir. July 25, 2023).....	54, 56
Camilo Montoya-Galvez, <i>Reports of airport immigration arrests come amid increased TSAICE collaboration, sources say</i> , CBS News (July 29, 2026), https://perma.cc/36MT-N7AM	37
Daniel M. Berman, <i>A Bill Becomes a Law: Congress Enacts Civil Rights Legislation</i> (2d ed. 1966)	14, 48
Executive Order No. 14,158, 90 Fed. Reg. 8441 (Jan. 20, 2025).....	36
Executive Order No. 14,243, 90 Fed. Reg. 13681 (Mar. 20, 2025)	36
Executive Order No. 14,248, 90 Fed. Reg. 14005 (Mar. 25, 2025)	36
Executive Order No. 14,399, 91 Fed. Reg. 17125 (Mar. 31, 2026)	37
Kaylie Martinez-Ochoa, Eileen O’Connor & Patrick Berry, <i>Tracker of Justice Department Requests for Voter Information</i> , Brennan Center for Justice (Sep. 23, 2026), https://perma.cc/4KLJ-QEVM	34
Kimberly Kindy & Amanda Seitz, <i>Trump administration gives personal data of immigrant Medicaid enrollees to deportation officials</i> , AP (June 14, 2025), https://apnews.com/article/medicaid-deportation-immigrants-trump-4e0f979e4290a4d10a067da0acca8e22	37
Nicholas Kerr & Elise Spenner, <i>System that DHS is urging states to use to assess voter rolls known to return faulty results: reports</i> , ABC News (July 19, 2026), https://perma.cc/5YBELRW6	35
Peter Elkind <i>et al.</i> , <i>Inside Trump’s Failed Hunt for Noncitizen Voters</i> , ProPublica (Aug. 14, 2026), https://perma.cc/A5KS-=M5C7	35

Press Release, Office of Public Affairs, United States Department of Justice, <i>Justice Department Sues Six Additional States for Failure to Provide Voter Registration Rolls</i> (Sep. 25, 2025), https://www.justice.gov/opa/pr/justice-department-sues-six-states-failure-provide-voter-registration-rolls	7
<i>Purpose</i> , Black’s Law Dictionary (4th rev. ed. 1968)	21, 32
<i>Purpose</i> , Dictionary.com, https://perma.cc/R2TW-GEBS (last visited Aug. 6, 2026).....	32
United States Commission on Civil Rights, <i>1963 Report of United States Commission on Civil Rights</i> (1963).....	14, 48

INTRODUCTION

Just like 24 other district courts and one court of appeals, the district court correctly held in this case that the United States Department of Justice (DOJ) is not entitled to the sensitive voter information contained in New York’s state-wide voter registration list (SVRL). Every court has ruled against DOJ, as its unprecedented request for sensitive voter data is beyond its statutory authority and represents an incursion into states’ roles in administering elections—an overreach that upsets our constitutional structure surrounding elections.

In this case, DOJ wrote to the state of New York seeking, *inter alia*, a copy of the state’s unredacted SVRL, including sensitive information like social security numbers. When New York did not produce the unredacted list, Appellant sued and lost. The district court correctly applied the Federal Rules of Civil Procedure, ensuring that the “appropriate process” commanded by the Civil Rights Act of 1960 (CRA) was followed. And the court correctly held that DOJ’s demands exceeded the bounds of the statute and, therefore, could not be enforced, while also noting that DOJ’s demand was deficient on its face. Appellant mounts no persuasive argument as to why the district court was wrong, or why this Court should not affirm on additional grounds.

STATEMENT OF THE ISSUES

1. Whether meaningful judicial review, including application of the standards of the Federal Rules of Civil Procedure, apply to DOJ's demand for records under the CRA.
2. Whether DOJ stated a sufficient factual "basis" for its demand as required under the CRA.
3. Whether DOJ satisfied the statutory prerequisite of stating a sufficient "purpose" in its demand under the CRA.
4. Whether New York's voter registration list is a record subject to production under Title III.

STATEMENT OF THE CASE

A. New York's SVRL.

New York's State Board of Elections (SBOE or Board), a state agency within the executive department, N.Y. Elec. Law § 3-100(1), (3), maintains the state's SVRL, known as the NYSVoter List. N.Y. Elec. Law § 5-614. The SBOE is a bipartisan board composed of four commissioners, two of whom serve as co-chairs. N.Y. Elec. Law § 3-100(1)-(2). The Board appoints two co-executive directors and additional staff. *Id.* (3). Under New York law, the NYSVoter List "shall be in the custody of the state board of elections." N.Y. Elec. Law § 5-614(1).

The NYSVoter List serves as the “the single system for storing and managing the official list of registered voters throughout the state” and contains the name and registration information of every voter. *Id.* (3)(a)-(b). The SBOE created the NYSVoter List by compiling registration records from local boards of election, and compiles such records on an ongoing basis. *Id.* (2). New York law provides for the removal or deactivation of voters who have died, lost the right to vote, or have registered to vote more than once or in another state. *Id.* §§ 5-614(4)-(8), (14), 5-400(2)(d), 5-704, 5-708. The SBOE has also promulgated regulations governing this type of list maintenance. *See e.g.*, N.Y. Comp. Codes R. & Regs. tit. 9 §§ 6217.8, 6217.10(d).

B. Background and procedural history.

During the summer of 2025, DOJ sent letters to the co-executive directors of the SBOE, demanding various types of data about New York voters and elections. New York informed DOJ where they could obtain the entire NYSVoter List, with only a few fields of sensitive information redacted, and answered DOJ’s questions. Appellant nonetheless filed suit on September 25, 2025.

1. June 2025: DOJ invokes Help America Vote Act (HAVA) to get data.

On June 30, DOJ sent a letter to the Board requesting information related to New York’s compliance with HAVA. *See* JA53-55, 33. DOJ asked specific questions about how New York complies with various HAVA requirements for list

maintenance. JA53-54. Toward the end of the letter, DOJ requested “New York’s current statewide voter registration list. Please include both active and inactive voters.” JA54. While DOJ purportedly requested the SVRL to assess HAVA compliance, it referenced no legal authority, nor did the June 30 letter describe any potential deficiencies in New York’s HAVA compliance. JA53-55. And the June 30 letter did not reference the CRA. JA53-55. On July 24, New York replied, noting that it anticipated responding to DOJ’s substantive requests by the end of August. JA57, 33.

2. August 14, 2025: DOJ cites new laws for its demand.

On August 14, prior to receiving New York’s response, DOJ sent another letter demanding access to “an electronic copy of [New York’s computerized statewide] voter registration list” with all fields, including each “[each registrant’s] state driver’s license number or the last four digits of [their] social security number.” *See* JA60. As in the June letter, DOJ said that it requested the unredacted NYS Voter List to assess compliance with HAVA. But for the first time, the August 14 letter referred to the National Voter Registration Act (NVRA) and CRA, stating that “Section 301 of the CRA requires state and local officials to retain and preserve records . . .” and that Section 303 provides that any paper retained “shall, upon demand in writing by the Attorney General or his representative . . . be made available for inspection, reproduction, and copying[.]” DOJ stated “[t]he purpose of the [CRA] request is to

ascertain New York's compliance with the list maintenance requirements of the NVRA and HAVA." JA61. Neither DOJ's June letter, nor its August follow-up, contained facts or allegations regarding New York's compliance with federal law or maintenance of the NYSVoter List. JA53-55, 60-62.

DOJ explained that it believed that disclosure of the last four digits of social security numbers would not violate the Privacy Act and that disclosure of driver's license numbers would not violate the "Driver's License Protection Act." JA60-62. DOJ's August 14 letter was identical to letters it sent to other states that day. *Compare* JA60-62 with Aug. 14, 2025 Letter to Mich. Sec'y of State, *United States v. Benson*, No. 1:25-cv-01148 (W.D. Mich. Nov. 26, 2025), Dkt. 39-4.

3. August 29, 2025: New York provides information about its public SVRL and answers DOJ's questions.

On August 29, the SBOE responded. JA64-74. SBOE's response came in three parts—one portion sent on behalf of the Board as a whole, JA64-70, and a response from each partisan group of commissioners. JA71-74. The letter from the Board as a whole answered DOJ's 14 HAVA inquiries, including the ways New York complies with Section 303 of HAVA, the process by which each voter is assigned a unique identifier, and how New York removes duplicate registrations and other ineligible voters. JA64-70. The response attached SBOE's agreement with the New York Department of Motor Vehicles, entered into pursuant to HAVA. JA68-69.

The SBOE as a whole did not respond to DOJ's demand for the NYSVoter List. JA67. Rather, counsel for the Democratic commissioners and Republican commissioners, respectively, wrote separately to outline their positions. The Democratic commissioners stated that, under New York law, they were unable to disclose portions of social security numbers or identification numbers from the DMV. JA71. They explained how DOJ could order a copy of New York's public list and noted that the authority DOJ cited in its letters did not require production of the unredacted version. JA71-72. Furthermore, the Democratic commissioners pointed out that federal law may also limit such disclosure, and that DOJ "has never before amalgamated unredacted voter files across multiple states." JA72.

The Republican commissioners indicated "the information requested relating to the statewide voter registration list can and should be provided in its entirety, with an understanding that all personal identifying information contained within any version of this list be protected from public disclosure under all relevant provisions of both New York State and federal law." JA73. The Republican commissioners did not cite the CRA but stated that DOJ had "inherent authority" to demand the unredacted list as part of its enforcement authority under HAVA and the NVRA. JA73. While the Republican commissioners acknowledged New York law prohibits disclosure of social security numbers or DMV identifiers, they suggested without citation that the relevant provision of state law did not apply to either partial social

security numbers or requests by DOJ. The Republican commissioners also directed DOJ to where they might obtain the public SVRL. JA73-74. According to Appellant's complaint, the state provided a public version of the SVRL. JA34.

4. Proceedings in the district court.

Despite SBOE's detailed responses, Appellant filed suit on September 25, 2025, alleging violations of the CRA, NVRA, and HAVA. JA22-40. DOJ filed five near-identical suits on the same day, each of which has been dismissed.¹ The complaint demanded a SVRL that includes "all fields, including each registrant's full name, date of birth, residential address, their state driver's license number, and the last four digits of their Social Security number." JA38-39. As it had already obtained the public NYSVoter List, JA34, 71, 73-74, the only information to which DOJ did not have access were voters' driver's license and social security numbers.

Various organizations, including the League of Women Voters of New York State (LWVNYS), moved to intervene. *See* JA9-11. On December 30, the Appellees

¹ Press Release, Off. of Pub. Affs., U.S. Dep't of Just., *Justice Department Sues Six Additional States for Failure to Provide Voter Registration Rolls* (Sep. 25, 2025), <https://www.justice.gov/opa/pr/justice-department-sues-six-states-failure-provide-voter-registration-rolls>; *See also United States v. Weber*, 816 F. Supp. 3d 1168 (C.D. Cal. 2026); *United States v. Benson*, 819 F. Supp. 3d 753 (W.D. Mich. 2026) (*Benson I*), *aff'd* 179 F.4th 470 (6th Cir. 2026) (*Benson II*); *United States v. Simon*, No. 25-cv-3761, 2026 WL 2389778 (D. Minn. Aug. 17, 2026); *United States v. Scanlan*, No. 25-cv-371, 2026 WL 1864054 (D.N.H. June 29, 2026); *United States v. Schmidt*, 835 F. Supp. 3d 697 (W.D. Pa. 2026).

and Intervenor-Defendant-Appellees moved to dismiss the complaint. JA17, 42-49.² Appellant responded and filed a “cross-motion to compel production” on January 6, 2026. JA75-78.

On July 10, 2026, the district court issued its memorandum-decision and order. The court granted the motions to intervene under Federal Rule of Civil Procedure 24(b) before proceeding to consider the sufficiency of Appellant’s complaint. JA441. Like every other court to consider the question, the district court rejected Appellant’s argument that the Rules of Civil Procedure should not apply and analyzed the various motions under Rule 12(b)(6). JA442-46. The district court concluded that “a voter registration list is not a § 20701 document because it is created by state officials and, therefore, ‘does not come into [their] possession.’” JA449 (alterations in original) (quoting *United States v. DeMarinis*, No. 25-cv-3934, 2026 WL 1780586, *5 (D. Md. June 18, 2026)). The court further found that reading the CRA to not include SVRLs as Section 20701 documents also avoided a conflict with 52 U.S.C. § 20702, which prohibits the alteration of any such document since, under federal law, SVRLs must be constantly updated to remain current. JA450-51. And while it did not form the basis of the court’s opinion, Judge D’Agostino observed that Appellant’s demand lacked a basis and purpose. The court noted that

² As the district court had not yet granted intervention, LWVNYS and the other intervenors moved for leave to file their proposed motions to dismiss. *See* JA17. The district court granted those motions as part of its July 10, 2026 decision. JA441 n.6.

Appellant stated “no basis” and that the purported purpose (“ascertain[ing] New York’s compliance with the list maintenance requirements of the NVRA and HAVA”) “lacks any relation to the purposes for which Title III was enacted.” JA447 (citing *United States v. Oregon*, 828 F. Supp. 3d 1092, 1104 (D. Or. 2026)).

Turning to Appellant’s NVRA and HAVA claims, the district court found those wanting as well. Addressing the NVRA claim, the district court adopted the Ninth Circuit’s reasoning in *Public Interest Law Foundation Inc. v. Nago*, 174 F.4th 664 (9th Cir. 2026), that an SVRL is not a record “concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists.” JA456-57 (citations omitted). Therefore, the court held, the NYSVoter List does not fall within the NVRA’s public disclosure provision, 52 U.S.C. § 20507(i). JA458. Finally, the court rejected Appellant’s arguments that, although HAVA does not contain an “inspection or disclosure provision[],” it could nonetheless compel the production of the unredacted SVRL under that statute. JA459.

Appellant appealed on July 23, 2026, JA463, and filed its opening brief on August 25. Dkt. 67.1 (Appellant’s Br.). Appellant’s brief only addresses its CRA claim. Appellant’s Br. at 3 n.2.

SUMMARY OF THE ARGUMENT

This Court should affirm the district court’s decision dismissing Appellant’s CRA claim and denying the cross-motion to compel. Appellant did not appeal the district court’s decisions on its NVRA and HAVA claims, so they are not at issue. As to the CRA claim, the district court engaged in appropriate judicial review and properly applied the Federal Rules of Civil Procedure; Appellant is not entitled to a minimal “statutory proceeding” lacking such safeguards. And just as 24 other district courts and the Sixth Circuit—every court to decide the issue—have found in similar cases across the country, Appellant has failed to state a claim.

Appellant’s complaint suffers from three major flaws, each of which require dismissal: (1) DOJ failed to state a sufficient basis for its CRA demand, a statutory prerequisite; (2) DOJ has not identified a legitimate purpose for its demand, as the CRA requires; and (3) DOJ cannot properly demand the NYSVoter List under the CRA because it is not a record or paper that “comes into possession” of the SBOE. Moreover, the availability of a redacted copy of the SVRL under NVRA’s public disclosure provision undermines Appellant’s CRA arguments. This Court should affirm.

STANDARD OF REVIEW

To survive a motion to dismiss under Rule 12(b)(6), the complaint must present “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl.*

Corp. v. Twombly, 550 U.S. 544, 547, 570 (2007). Thus, “when the allegations in a complaint, however true, could not raise a claim of entitlement to relief, this basic deficiency should be exposed at the point of minimum expenditure of time and money by the parties and the court,” on a motion to dismiss. *Id.* at 558 (internal quotations and citation omitted).

This Court reviews a dismissal under Rule 12(b)(6) *de novo*, “accepting all factual allegations in the complaint and drawing all reasonable inferences in the plaintiff’s favor.” *ATSI Commc’ns, Inc. v. Shaar Fund, Ltd.*, 493 F.3d 87, 98 (2d Cir. 2007). The Court need not “accept as true a legal conclusion couched as a factual allegation.” *Twombly*, 550 U.S. at 555 (citation omitted). Courts may also consider documents of which “they had notice and which were integral to their claim” in considering a motion to dismiss. *Cortec Indus., Inc. v. Sum Holding L.P.*, 949 F.2d 42, 44 (2d Cir. 1991).

ARGUMENT

I. Appellant is not entitled to a curtailed, “special statutory proceeding” on any of its claims, and application of Rule 12 standards was appropriate.

The district court correctly applied the Federal Rules of Civil Procedure when it dismissed Appellant’s complaint. Although the Federal Rules generally apply in “all civil actions,” Fed. R. Civ. P. 1, Appellant asserts that the court should have declined to apply them and simply required New York to release its sensitive voter data without meaningful review of DOJ’s demands or the relevant statutes.

Appellant's Br. at 37-40. This argument runs headlong into Supreme Court precedent confirming the applicability, and need for, judicial review in such circumstances. Appellant ignores the multiple recent district court and one appellate decision rejecting its theory, relying instead on out-of-circuit cases that are more than sixty years old, and the product of a very different era. This Court should, likewise, reject Appellant's attempts to avoid such analysis. *See* Appellant's Br. at 14-15.

A. The Federal Rules of Civil Procedure apply here, as courts have repeatedly found in identical cases.

The Federal Rules of Civil Procedure “govern the procedure in all civil actions and proceedings in the United States district courts,” with limited exceptions. Fed. R. Civ. P. 1; *see also* 28 U.S.C. § 2072(b). And while Congress may create such exceptions by statute, courts “do not lightly infer that Congress has done so.” *United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 436 (2023).

Congress created no such exception here. The CRA provides that district courts “shall have jurisdiction *by appropriate process* to compel the production of” a document that DOJ demands. 52 U.S.C. § 20705 (emphasis added). Just a few years after the CRA was enacted, the Supreme Court held that a statute using the same phrase—“appropriate process”—to compel production of documents required application of the Federal Rules. *United States v. Powell*, 379 U.S. 48, 58 n.18 (1964) (“Because § 7604(a) contains no provision specifying the procedure to be followed in invoking the court’s jurisdiction, the Federal Rules of Civil Procedure apply.”).

The CRA’s text is identical to the text at issue in *Powell*, and the two statutes should be interpreted in the same way. *See Cir. City Stores, Inc. v. Adams*, 532 U.S. 105, 117 (2001) (interpreting common phrases differently “would contradict our earlier cases and bring instability to statutory interpretation”); *see also Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992) (interpreting the same term consistently across two separate statutes). By contrast, and as the district court held, there is no language in the CRA that permits, or requires, a “special statutory proceeding” outside the normal rules. *See* 52 U.S.C. § 20705; JA442-43; *Oregon*, 828 F. Supp. 3d at 1103.

For these reasons, courts across the country, including both of the other district courts in this Circuit to have addressed such a case, have rightly rejected Appellant’s argument that the Federal Rules are inapplicable here and that courts must simply rubber stamp DOJ’s demands for records under Title III of the CRA. *See, e.g., United States v. Benson*, 179 F.4th 470, 478, 483 n.2 (6th Cir. 2026) (*Benson II*) (applying typical standard of review and citing *Powell* to reject argument that DOJ’s demand was “virtually unreviewable”); *United States v. Thomas*, No. 3:26-cv-21, 2026 WL 2070437, at *3 (D. Conn. July 17, 2026) (applying Rule 12(b)(6)); *Simon*, 2026 WL 2389778, at *7-8; *Weber*, 816 F. Supp. 3d at 1182; *United States v. Amore*, 831 F. Supp. 3d 149, 155 (D.R.I. 2026).

The district court was therefore correct to interpret CRA’s “appropriate process” language to require the application of the Rule 12(b)(6) standard, and Appellant’s arguments to the contrary are unavailing. Appellant relies heavily on *Kennedy v. Lynd*, a Fifth Circuit opinion from 1962, and other cases which preceded the Supreme Court’s decision in *Powell*. See Appellant’s Br. at 37-40 (citing *Kennedy v. Lynd*, 306 F.2d 222, 225 (5th Cir. 1962) (*Lynd II*)). Given the Court’s subsequent decision in *Powell*, Appellant’s argument is not persuasive. But even the language in *Lynd II* does not suggest a perfunctory proceeding but, rather, something “comparable to the form of a traditional order to show cause, or to produce in aid of an order of an administrative agency.” 306 F.2d at 225. And *Lynd II* does not suggest that even such a “comparable” proceeding is warranted in all CRA cases, including where there is no administrative order. See *id.* *Lynd II* was also the product of a different era, shortly after the enactment of the CRA, during which “some southern officials, in order to hamper investigations by the Department of Justice and the Civil Rights Commission, had been destroying or impounding voting and registration records.” Daniel M. Berman, *A Bill Becomes a Law: Congress Enacts Civil Rights Legislation* 9 (2d ed. 1966); see also U.S. Comm’n on C.R., *1963 Report of the United States Commission on Civil Rights*, at 16 (1963). In the intervening 60 years, the Supreme Court has clarified that typical procedure, including a chance to challenge the government’s entitlement to the records, attaches when a federal

agency seeks to compel the production of records. *See Becker v. United States*, 451 U.S. 1306, 1307-08 (1981); *Powell*, 379 U.S. at 57-58; *see also, e.g., United States v. Will*, 671 F.2d 963, 966 (6th Cir. 1982) (allowing summons recipient opportunity to rebut government’s prima facie case).

Appellant’s discussion of *Lynd II* is also tellingly selective. For example, Appellant never addresses the Fifth Circuit’s statement that “Title III provides ‘an effective means whereby preliminary investigations of registration practices can be made in order to determine whether or not such practices *conform to constitutional principles.*’” *Lynd II*, 306 F.2d at 225 (emphasis added) (citation modified). Appellant also does not argue that it is attempting to use *Lynd II*’s process to effectuate the Constitution’s guarantee of voting rights but, rather, that it needs the documents to engage in list maintenance, which the Constitution delegates to the states. Appellant’s Br. at 62 (“[DOJ] is verifying voter registration records and associated list maintenance activities by state and local entities.”). *Lynd II* recognized that under the CRA, a court “exercises judicial judgment. It does not confer or withhold a favor.” 306 F.2d at 225 (quoting *Tutun v. United States*, 270 U.S. 568, 578 (1926)). That judgment includes an analysis of whether the agency made the request for an improper purpose or in bad faith. *See In re Does*, 688 F.2d 144, 147-48 (2d Cir. 1982) (In IRS summons context, Government must establish “legitimate

purpose,” “relevan[ce] to that purpose,” and that the Government followed the requisite process.) (citation modified). DOJ’s demand failed that test.

Appellant’s reliance on *Donaldson v. United States*, 400 U.S. 517 (1971), is also misplaced. Appellant’s Br. at 39-40. In *Donaldson*, the central dispute was whether a third party could mandatorily intervene in a proceeding to enforce an IRS summons. The third party conceded that there were no constitutional issues at play and that the requests were not directed at his records. *Id.* at 522-23. Thus, no right of the third party who sought mandatory intervention was at issue. *Donaldson* simply held that an unharmed third party had no role in the proceeding. That is not the case here—New York law protects the confidentiality of the records sought, *see* N.Y. Pub. Off. Law § 96-a(2), and the SBOE and other Intervenor-Defendants-Appellees resist its disclosure, which would violate state law and exceed the bounds of the CRA.

Applying those standards, the district court correctly concluded that DOJ’s demands were insufficient. In part, that is because the NYSVoter List is not a document covered by Title III of the CRA. *See infra* Section III. Further, DOJ failed to meet the CRA’s requirements of stating the basis and the purpose of its demand. *See infra* Section II.

II. DOJ failed to assert a sufficient basis or purpose for its demand under the CRA, an alternative ground to affirm dismissal of the complaint.

A. DOJ failed to establish a basis for its demand.

DOJ did not comply with the CRA's requirement that it submit a "demand in writing" that includes a valid "statement of the basis and the purpose" for its demand, and dismissal of Appellant's CRA claim was therefore appropriate. 52 U.S.C. § 20703. DOJ's failure to provide either sufficient basis or purpose, which the district court observed but did not find determinative given its holding that DOJ is not entitled to the NYSVoter List under Title III, provides alternate grounds to affirm. *See Nat'l R.R. Passenger Corp. v. McDonald*, 779 F.3d 97, 100 (2d Cir. 2015) (Court "may affirm on any ground with support in the record"); *Adirondack Transit Lines, Inc. v. United Transp. Union, Local 1582*, 305 F.3d 82, 88 (2d Cir. 2002). Should this Court not affirm on this basis or on that relied on by the district court, *see infra* Section III, it should remand for further development of these issues, including potential discovery. *See, e.g., Leytman v. U.S. Dep't of Homeland Sec. Transp. Sec. Admin.*, 804 F. App'x 78, 81 (2d Cir. 2020) (summary order).

DOJ failed to state a basis for its Title III demand. Perhaps acknowledging that DOJ provided no such basis in its communications, Appellant instead argues that the sufficiency of DOJ's basis is beyond the reach of the district court entirely, and that the only proper considerations are whether there was a "written demand" of any sort, and whether DOJ provided "notice of the pendency of the proceeding."

Appellant’s Br. at 41. But the CRA requires more. The basis and purpose requirements of the CRA ensure that the statute must only be used as a tool to obtain records for reasons related to the statute. *See Weber*, 816 F. Supp. 3d at 1184 (“The requirement that the Attorney General state their purpose and basis is not merely perfunctory—it is a critical safeguard that ensures the request is legitimately related to the purpose of the statute.”). For example, DOJ could not use the CRA to obtain voting records because it wanted to verify taxpayer addresses. *Cf. 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.”). DOJ failed to comply with this requirement.

i. “Basis” means a factual basis.

Title III requires the Attorney General to establish a factual basis for his demand. *Cf.* Appellant’s Br. at 40-44. Every court to consider the issue has required the demand to include a factual basis. *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”); *United States v. Oliver*, No. 1:25-cv-1193, 2026 WL 2031479, at *9 (D.N.M. July 15, 2026); *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, 2026 WL 1864054, at *8 (D.N.H. June 29, 2026); *United States v. Schmidt*, 835 F. Supp. 3d 697, 698-99 (W.D. Pa. 2026); *United States v. Matthews*, No. 25-cv-3398, 2026 WL 2212877, at *4 (C.D. Ill. July 31, 2026). This unbroken approach, rather than Appellant’s willful misreading of the CRA, accords with the contemporaneous understanding of “basis” at the time of passage. Even in *Lynd I*, the Fifth Circuit required that DOJ explain “that there are reasonable grounds for belief that certain voters are being discriminatorily denied their voting rights in a given county” as part of a Title III demand. *United States v. Lynd*, 301 F.2d 818, 822 (5th Cir. 1962) (*Lynd I*).

For much the same reason, Appellant’s citation to the Congressional Record undercuts its argument, as the quotation cited establishes that Congress intended DOJ to provide both “why such an inspection was being made” and the legal framework that might be involved. “Why” is another way of requiring that DOJ describe what information led to the investigation, which requires a statement of facts. *Galvin*, 830 F. Supp. 3d at 127 (“Put simply, the statute requires a statement of why the Attorney General demands production of the requested records—and, as conveyed by the statute’s use of the definite article, the statement must be ‘the’ factual basis, not just a conceivable or possible basis.”). And DOJ has historically complied with this requirement. *Weber*, 816 F. Supp. 3d at 1182-83 (“In the past, the DOJ has routinely stated both a purpose and basis related to alleged civil rights

violations and how their requested records would specifically assist in their investigation.”). To state a sufficient basis,³ therefore, DOJ must provide the factual underpinnings that gave rise to their demand.

ii. Basis and purpose are distinct requirements under the CRA.

The CRA provides 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—indicate that the statute requires the statement to contain a specific basis and, separately, a specific purpose. *See, e.g., Benson II*, 179 F.4th at 483 (“The government cannot pinpoint a Title III demand with a statement of the basis *and* purpose. . . . [A]ny demand must contain both.”) (emphasis added); *Oliver*, 2026 WL 2031479, at *9. Congress’s use of the definite article—“the”—“particularizes the subject which it precedes.” *Am. Bus Ass’n v. Slater*, 231 F.3d 1, 4-5 (D.C. Cir. 2000) (citations and internal quotation marks omitted).

Appellant’s argument that DOJ need only provide a generalized statement would collapse those two requirements into one, a reading that cannot be reconciled with the text. *See* Appellant’s Br. at 41-42. “Basis” and “purpose” are distinct

³ Appellant’s argument regarding “magic words” misses the point. Appellant’s Br. at 42. The issue is not whether DOJ used the word “basis,” but whether it provided the factual information the CRA requires.

requirements with individual meanings. *See Basis*, Black's Law Dictionary (4th ed. 1951) ("foundation"); *Purpose*, Black's Law Dictionary 161 (4th ed. 1968) ("end, intention, or aim"). At a minimum, the "basis" requirement compels the Attorney General to describe facts in his possession that tend to show the law has been violated. *See Kennedy v. Bruce*, 298 F.2d 860, 861 (5th Cir. 1962). DOJ failed to meet these requirements.

iii. DOJ's demand for the NYSVoter List contained no statement of basis.

DOJ provided no factual basis here, as the district court observed. JA447-48. Neither DOJ's June 30 nor its August 14 letter contain any facts regarding the NYSVoter List or New York's list maintenance procedures, let alone any information that tends to show that New York is not complying with federal law. Instead, Appellant now claims that it is sufficient to state that it sought to "assess" or "ascertain" New York's compliance, with nothing more. Appellant's Br. at 43. If the Attorney General could compel election records from states anytime he thought they "may" be doing something wrong, with no legitimate factual support, then the CRA's reach would be limitless. That would eviscerate the oversight scheme Congress created and take all meaning out of the CRA's basis requirement. *See Galvin*, 830 F. Supp. 3d at 127 (basis requirement is "not a mere formality with which the federal government or this Court is free to dispense.").

If Congress meant to say notice, it would have said that. *Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 177 (1994). “We thus begin and end our inquiry with the text, giving each word its ordinary, contemporary, common meaning.” *Star Athletica, L.L.C. v. Varsity Brands, Inc.*, 580 U.S. 405, 414 (2017) (citation modified). Congress chose to use two separate words—basis and purpose—which plainly indicate a requirement beyond mere notice. And DOJ’s conclusory statements of basis argument that all that is required is mere “notice,” Appellant’s Br. at 42, contrast with the lawful demands for election records by the Attorney General in the 1960s, indicating DOJ has long known what those terms mean. In *Lynd II*, 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,” which is far from the total lack of information contained in DOJ’s requests to the SBOE. *See* 306 F.2d at 229 n.6; *see also 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. It also belies Appellant’s argument that the CRA lacks a sufficient standard—multiple courts have arrived at the same conclusion that a factual showing is required. *See* Section II.A.i., *supra*. The Attorney General sixty years ago had to have evidence of racial discrimination to acquire election records, and DOJ must present a similarly sufficient factual basis here, which it did not do.

B. DOJ failed to state a sufficient purpose for its demand.

Title III of the CRA requires DOJ to provide “the purpose” for any request for applicable records. 52 U.S.C. § 20703. That purpose, within the context of the CRA, must relate to alleged or potential violations of individual voting rights and cannot be to merely assess compliance with HAVA and the NVRA’s list maintenance requirements. Nor would access to the unredacted NYSVoter List further that purpose. Moreover, even if they were legally sufficient, DOJ’s stated purposes are pretextual.

i. DOJ’s stated purpose for its demand for the NYSVoter List does not satisfy CRA requirements because it does not relate to violations of individuals’ voting rights.

DOJ’s purported desire to investigate New York’s NVRA and HAVA compliance is legally insufficient, because the CRA can 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 (same) (quoting *Oregon*); *United States v. Warner*, No. 2:26-cv-00156, 2026 WL 2018877, at *7 (S.D. W. Va. July 13, 2026) (quoting *Oregon*) (same); *Schmidt*, 835 F. Supp. 3d at 698-700. Like the basis requirement, the purpose requirement is an important safeguard that courts must assess. In the related context of administrative subpoenas, courts have found that the test of judicial enforcement of an

administrative subpoena includes an evaluation of whether the investigation is “conducted pursuant to a legitimate purpose.” *Nat’l Lab. Rels. Bd. v. Am. Med. Response, Inc.*, 438 F.3d 188, 192 (2d Cir. 2006). And in the IRS summons context, the Second Circuit has laid out criteria the government must establish to obtain judicial enforcement, including “legitimate purpose,” “relevan[ce] to that purpose,” and that the Government followed the requisite process. *In re Does*, 688 F.2d at 147-48 (citation modified); *see also United States v. Clarke*, 573 U.S. 248, 254 (2014). 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.

Appellant asserts that “no language limiting Title III to violations of individuals’ voting rights appears anywhere in the statutory text,” Appellant’s Br. at 45, but this gets the analysis backwards. 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. E.P.A.*, 573 U.S. 302, 320 (2014). “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). Appellant

agrees with this general point, *see* Appellant’s Br. at 45 (quoting *United States v. Epskamp*, 832 F.3d 154, 162 (2d Cir. 2016)), but nonetheless asserts that Title III’s purpose requirement may be read to be totally independent from the rest of the statute. *But see Abramski v. United States*, 573 U.S. 169, 179 (2014) (Courts must “interpret the relevant words not in a vacuum, but with reference to the statutory context, history, and purpose.”) (internal quotation marks omitted); *Corley v. United States*, 556 U.S. 303, 314 (2009) (Statute must be “construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.”) (internal citation omitted). This is error. *See Benson II*, 179 F.4th at 474 (“Congress enacted Title III of the Civil Rights Act of 1960 to help end voting discrimination. Title III of the Act gave teeth to prior civil-rights legislation by empowering the U.S. Attorney General to obtain certain state voting records so that he could investigate potential violations and enforce federal election law.”).

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, Appellant’s Br. at 3—and allow for purposes that have no relation to, and perhaps even undermine, the statutory scheme. Appellant’s arguments boil down to a simple but startling assertion: because the CRA’s text does not explicitly list the purposes on which DOJ may rely, or make explicit that it must be connected to the overall structure and purpose of the statute (which Appellant

concedes is protect “against public and private interference with the right to vote,” Appellant’s Br. at 3), it therefore does not “limit[] the proper purposes of a Section 303 demand.” Appellant’s Br. at 10, 12; *see also id.* at 44-46. That argument lacks any limiting principle and accepting it would allow DOJ to seek a wide range of private data for *any purpose*, including one contrary to the CRA. By Appellant’s reasoning, DOJ could demand data for an explicitly discriminatory or otherwise unlawful purpose, and a court would be obliged to compel its production. The law does not provide the executive branch such power.

Appellant also suggests HAVA and NVRA compliance protects voting rights by preventing the dilution of votes cast by lawfully registered voters. Appellant’s Br. at 50. But it never explains how acquiring the unredacted NYSVoter List 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 or allegation that voting by ineligible individuals is warping federal elections in New York.

Thus, because DOJ’s purpose for its CRA demand was to assess New York’s list maintenance—and not to investigate violations of individuals’ voting rights—Appellant cannot use the CRA to obtain the unredacted NYSVoter List.

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

Appellant’s effort to use HAVA and the NVRA’s list maintenance requirements as the requisite purpose also fails because those statutes create comprehensive schemes that entrust list maintenance to the states and provide for enforcement in instances of noncompliance. The NVRA requires each state to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists” for deaths and changes in residence; specifies when and how states may and may not remove voters from the rolls; and compels states to designate a chief election official responsible for these tasks. 52 U.S.C. §§ 20507(a)(4), 20507(c)-(d), 20509. HAVA, among other things, obligates 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 [to] perform list maintenance;” and directs that “the 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.

These schemes include a limited role for DOJ: to bring civil enforcement actions for instances of noncompliance. 52 U.S.C. § 20510 (NVRA); 52 U.S.C. § 21111 (HAVA). The NVRA also allows DOJ (and others) access to “records

concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). The statutes do not, however, give DOJ limitless authority to conduct audits or access confidential information. “Congress did not confer a general auditing power to the DOJ over state election officials” in the NVRA or HAVA. *Matthews*, 2026 WL 2212877, at *5 (citing *West Virginia v. EPA*, 597 U.S. 697, 721-23 (2022)).

“It is a commonplace of statutory construction that the specific governs the general. That is particularly true where . . . Congress has enacted a comprehensive scheme and has deliberately targeted specific problems with specific solutions.” *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (citation modified). Where “a general authorization and a more limited, specific authorization exist side-by-side . . . [t]he terms of the specific authorization must be complied with.” *Id.* The NVRA and HAVA create specific, carefully crafted, nationwide rules for list maintenance. 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 those statutes create. To allow a more general grant of authority in the CRA to supersede the structure created by the NVRA and HAVA would destroy that structure entirely. The government cannot establish a legally sufficient purpose under the CRA by

reference to enforcing statutes that do not provide the government with the authority it claims. “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, too, 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) (citation omitted).

Appellant’s reliance on the NVRA and HAVA therefore undermines its case, because those statutes limit DOJ’s investigatory authority to the oversight responsibilities Congress delegated within them. The NVRA and HAVA do not grant the federal government unfettered power to obtain confidential voter information. *Cf.* Appellant’s Br. at 48. Notably, the portions of those statutes Appellant quotes describe only the rules for states, and do not provide DOJ with authority to do anything. Neither the Constitution nor Congress has delegated this power to the executive branch—there may be more than one appropriate purpose, but that does not mean that the CRA expands 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.”).

The NVRA and HAVA also postdate the CRA, meaning that Congress knew the limits of DOJ’s authority under the CRA and chose to leave them in place. If Congress wanted to reference the CRA in those statutes, 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 the NVRA and HAVA, 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.

iii. Receiving the unredacted NYSVoter List would not serve Appellant’s claimed purpose of enforcing the NVRA and HAVA.

Even if the CRA could be used to demand records for NVRA and HAVA oversight, Appellant’s asserted purpose fails for another reason: the unredacted NYSVoter List would not enable Appellant to achieve its stated goal of “ascertain[ing] New York’s compliance with the list maintenance requirements of the NVRA and HAVA.” Appellant’s Br. at 43. The NVRA requires states to implement “a *general program* that makes a *reasonable effort* to remove the names of ineligible voters from the official lists of eligible voters.” 52 U.S.C. § 20507(a)(4) (emphasis added); *Husted v. A. Philip Randolph Inst.*, 584 U.S. 756, 787 (2018) (Breyer, J., dissenting). The Supreme Court has “recognized that ‘States take a

variety of approaches’ in complying with the NVRA’s requirements.” *Common Cause/New York v. Brehm*, 432 F. Supp. 3d 285, 317 (S.D.N.Y. 2020) (citing *Husted*, 584 U.S. at 762). “Congress did not give any further guidance on what a ‘reasonable effort’ must look like. Congress did not, for example, enumerate what steps a state should take to come into compliance with this standard.” *Pub. Int. Legal Found. v. Benson*, 136 F.4th 613, 624 (6th Cir. 2025). HAVA, similarly, delegates substantial authority to the states to determine how they will comply with its requirements. 52 U.S.C. § 21083(a)(1)(A). The SBOE’s thorough responses to DOJ’s letters in 2025 provide the information needed to ascertain New York’s compliance with its list maintenance requirements, by explaining how New York conducts list maintenance as required by federal law. The NYSVoter List, on the other hand, provides only a snapshot of current registrations, and provides no additional information about how New York 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.”).

* * *

While it is true that the “basis and purpose” requirements in the CRA do not list categories of documents DOJ may demand, Appellant’s Br. at 44-46, they do require Appellant to explain why it needs the information sought. DOJ must give a legally valid reason of need that connects to a legally valid result. *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 the NVRA and HAVA to get data that does not address New York’s compliance with those laws does not suffice.

“Purpose” means “the reason for which something exists or is done . . . ; an intended or desired result.” *Purpose*, Dictionary.com, <https://perma.cc/R2TW-GEBS> (last visited Aug. 6, 2026); *Purpose*, Black’s Law Dictionary (4th rev. ed. 1968) (“end, intention, or aim”). The plain meaning of “purpose”—the term Congress chose to use in the CRA—is clearly something more than just “notice” of any purpose. *See, e.g., Warner*, 2026 WL 2018877, at *6 (“[T]he ‘purpose’ requirement cannot be satisfied by a blanket statement to a potential violation of any federal law”); *Amore*, 831 F. Supp. 3d at 157 (“Congress cannot have intended Title III as permitting such a demand based on a statement of *any* purpose.”); *Oregon*, 828 F. Supp. 3d at 1104 (“If *any* purpose—regardless of its relationship to the purposes of the statute itself—would suffice, then the requirement of stating the demand’s purpose would serve no function.”); *Matthews*, 2026 WL 2212877, at *5 (“The Attorney General must state a *legitimate* purpose for any Title III demand

. . .”). Appellant has failed to allege any sufficient or legitimate purpose for its demand.

iv. Appellant’s statement of purpose is pretextual.

This Court should not accept Appellant’s vague assertions of assessing compliance with federal law as the true purpose for its demand. 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 pretextual.

Because the basis and purpose requirements of Title III are important safeguards, not mere formalities, courts in parallel cases have considered whether Appellant’s stated purpose is the actual purpose of its request. “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.* Public actions and statements from federal officials reveal DOJ’s true priority: 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); *Schmidt*, 835 F. Supp. 3d at 699-700 (“Public statements from government officials reveal its intentions: to create a nationwide voter-

database, for potential weaponization in future elections; as a ‘fishing expedition,’ hoped to advance unsubstantiated claims of non-citizen voting; and as a tool for immigration enforcement.”); *Amore*, 831 F. Supp. 3d at 158 (rejecting the United States’ effort to “conduct the kind of fishing expedition” it seeks with its demands).

Appellant’s lawsuits against 30 states and the District of Columbia⁴—each seeking an unredacted SVRL—demonstrates a sweeping effort to amass data, not to make targeted assessments of list maintenance practices. Appellant has admitted it will use the data for purposes far afield from assessing compliance with the NVRA and HAVA. *Cf.* Appellant’s Br. at 43. Government lawyers have 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 165:17-23, *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

⁴ Kaylie Martinez-Ochoa, Eileen O’Connor & Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, Brennan Ctr. for Just. (Sep. 23, 2026), <https://perma.cc/4KLJ-QEVM>.

⁵ On June 22, 2026 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 (D.D.C. 2026) (finding the SAVE program expansion had “haphazardly combined and repurposed the private information of millions of Americans, including citizenship data that they knew to be unreliable”). That decision has since been stayed. *Dep’t of Homeland Sec. v. League of Women Voters*, No. 26A308, 2026 WL 2879700 (U.S. Sep. 25, 2026).

databases, again, that’s something that’s been routine”); *see also United States v. Benson*, 187 F.4th 462, 477 (6th Cir. 2026) (*Benson III*) (Thapar, J., dissenting from denial of reh’g en banc) (“The Attorney General then planned to compare the voter file to federal databases”). And over two months ago, on July 17, 2026, the Secretary of DHS threatened state officials with withholding funds and possible criminal penalties unless they “scrub” their voter rolls in line with DHS’s demands, after apparently running several states’ voter rolls through the SAVE program.⁶ Reports detail how the government has diverted federal law enforcement agencies from their core missions to collect individual-level voter data and prosecute election crimes, including by reassigning DHS’s investigatory arm to track down “leads” on noncitizens voting.⁷ All in all, efforts to sweep up sensitive voter data, run it through federal databases, and redirect law enforcement resources to do so show the pretextual nature of Appellant’s stated purpose.

The executive branch’s broader quest to amass sensitive data has been revealed through a campaign of agency actions, including:

- Between January and March 2025, the President issued executive orders that established centralized data keeping systems and ordered agencies to

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/5YBELRW6>.

⁷ Peter Elkind *et al.*, *Inside Trump’s Failed Hunt for Noncitizen Voters*, ProPublica (Aug. 14, 2026), <https://perma.cc/A5KS-M5C7>.

- 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, including, as appropriate, data generated by those programs but maintained in third-party databases,” Exec. Order No. 14,243, 90 Fed. Reg. 13681, § 3(b), (c) (Mar. 20, 2025); and directed the Department of Homeland Security (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).
- In April 2025, the administration directed the Internal Revenue Service to provide confidential taxpayer 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); *Ctr. for Taxpayer Rts. v. Internal Revenue Serv.*, No. 25-0457 (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).

- In May 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 June 2025, it was revealed that 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,⁹ although 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).
- In March 2026, the President issued an executive order on mail voting that 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).

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

⁹ Kimberly Kindy & Amanda Seitz, *Trump administration gives personal data of immigrant Medicaid enrollees to deportation officials*, AP (June 14, 2025), <https://apnews.com/article/medicaid-deportation-immigrants-trump-4e0f979e4290a4d10a067da0acca8e22>.

Appellant primarily responds by portraying the CRA as a law that “leaves no room for a court to second-guess the stated basis and purpose,” Appellant’s Br. at 51, or employs a bad-faith, administrative subpoena standard, *id.* at 52. But Appellant is not entitled to a “summary procedure” under the CRA, *see* Section I, *supra*, and this Court need not ignore public statements that cast doubt on whether Appellant has met its burden to “state a *legitimate* purpose for any Title III demand,” *Matthews*, 2026 WL 2212877, at *5. Courts are “not required to exhibit a naivet[é] from which ordinary citizens are free,” *United States v. Stanchich*, 550 F.2d 1294, 1300 (2d Cir. 1977), and need not credit allegations if they are “conclusory or contradicted by more specific allegations or documentary evidence,” *Jeffery v. City of New York*, 113 F.4th 176, 179 (2d Cir. 2024) (citing *NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co.*, 693 F.3d 145, 149 n.1 (2d Cir. 2012)), *cert. denied*, 145 S. Ct. 1174 (2025) (mem.). That is why, in multiple cases concerning Appellant’s demands for sensitive voter data—and even at the motion to dismiss stage—courts have reviewed statements like those above and refused to accept Appellant’s pretextual justifications for uses of “the sensitive information of millions of Americans.” *Weber*, 816 F. Supp. 3d at 1184; *see also Oregon*, 828 F. Supp. 3d at 1107 (“When Plaintiff, in this case, conveys assurances that any private and sensitive data will remain private and used only for a declared and limited purpose, it must be

thoroughly scrutinized and squared with its open and public statements to the contrary.”). So should this Court.

Against the backdrop of the executive branch’s quest to gather Americans’ sensitive data and DOJ’s efforts with respect to sensitive voter data, Appellant’s claim that it is seeking voters’ confidential data solely to pursue high-level checks for compliance with federal voter registration law is implausible. DOJ’s efforts to acquire unredacted state voter rolls are part of the executive branch’s larger data consolidation project.

III. The CRA does not authorize DOJ to demand the NYSVoter List.

The district court correctly held that Appellant would not be entitled to the unredacted NYSVoter List even if its demand sufficiently stated a basis and purpose. JA447-49. The CRA provides that election officers must retain “all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election,” 52 U.S.C. § 20701, and the district court properly concluded that the NYSVoter List did not “come into [the] possession” of state election officials because they did not obtain it from a third party. JA447-53. The district court’s dismissal should be affirmed on this ground as well.

A. The plain language of the CRA supports the district court's holding.

Eighteen courts, including the district court here, have held that Appellant cannot use the CRA to obtain States' SVRLs because they are not records that "come into possession" of state election officials, but rather records the state election officials create and maintain. *See, e.g.*, JA449-50. As the Sixth Circuit explained, "come into possession" is a synonym for "obtain," "acquire," or "receive." *Benson II*, 179 F.4th at 478. And the SBOE did "not acquire, obtain, or receive the qualified voter file from a third party," but instead created the NYSVoter List, meaning it does not fall within the CRA's bounds. *Id.* at 478-79; *see also* N.Y. Elec. Law § 5-614(2).

As the district court explained:

Thus, to give effect to the phrase 'come into [their] possession' and prevent it from being surplusage, this Court joins the district courts that interpret 'the phrase as referring to only those documents that state election officials receive from prospective voters.'

JA450 (quoting *United States v. Benson*, 819 F. Supp. 3d 753, 768 (W.D. Mich. 2026) (*Benson I*)). This Court should reject Appellant's contentions to the contrary for the following reasons.

First, Appellant's reliance on the phrase "relating to" within 52 U.S.C. § 20701 is misplaced. Appellant's Br. at 17. Even if that phrase should be read expansively, it is still limited to those records which "come into [the official's] possession," on which the district court based its decision. JA447-53. To avoid

reading that phrase as surplusage, then, both conditions must be met—a record must *both* be one “any application, registration, payment of poll tax, or other act requisite to voting in such election” *and* be “records and papers which come into [the official’s] possession. 52 U.S.C. § 20701. Appellant’s argument that “relating to” is, alone, sufficient to bring the NYSVoter List within the scope of the statute would require this Court to avoid the preceding phrase entirely. *But see Bell v. Reno*, 218 F.3d 86, 91 (2d Cir. 2000) (“It is a well-known canon of statutory construction that, in general, a statute should not be construed so as to render a word or clause inoperative.”).

Second, Appellant argues that the “comes into possession” language serves simply as a *temporal* limitation, rather than limiting the records based on whether election officials receive them. Appellant’s Br. at 17-18. That interpretation contradicts normal English usage. The phrase does not encompass records that state election officials create, because an “ordinary English speaker would not say that she has come into possession of something that she created, established, and maintained.” *Benson II*, 179 F.4th at 479. Appellant muses that Congress likely used the term “because it is broad enough to include both voter-generated and state-generated documents,” but relies primarily on its own Office of Legal Counsel opinion for support. Appellant’s Br. at 18-19; *but see Benson II*, 179 F.4th at 482 (“OLC’s opinion conflicts with the plain language of Title III.”). Indeed, even the

dissent in *Benson II* did not dispute that “‘the aggregate’ list does not qualify as a record” under 52 U.S.C. § 20701. *Benson III*, 187 F.4th at 466 (Murphy, J., concurring in denial of reh’g en banc) (describing the arguments of the dissent). And the per curiam opinion of the Fifth Circuit in *Kennedy v. Owen*, Appellant’s Br. at 19, is entirely silent on the source of the documents (or, generally, whether the documents at issue were within the scope of 52 U.S.C. § 20701), but rather addressed the question of whether the demand was sent to the proper official, 321 F.2d 116, 117 (5th Cir. 1963) (per curiam).

Appellant’s reliance on *United States Department of Justice v. Tax Analysts*, 492 U.S. 136, 144 (1989), to support its argument is similarly unavailing. Appellant’s Br. at 20. *Tax Analysts* is a Freedom of Information Act (FOIA) case in which the Court analyzed the term “agency records” in a statutory provision that does not include the “comes into possession” language at issue here. The case thus provides no guidance on how to analyze the operative phrase here. *Benson II*, 179 F.4th at 481. Further, *Tax Analysts*’s definition of agency records relies on the purposes of the FOIA, and found that “[t]o restrict the term ‘agency records’ to materials generated internally would frustrate Congress’ desire to put within public reach the information available to an agency in its decision-making processes.” *Tax Analysts*, 492 U.S. at 144. The language from that case cited by Appellant is not a textual reading of the statute, but reflects a judicial definition of agency records to

fulfill Congress’s intent of promoting transparency by enacting FOIA, while also protecting sensitive information like employment records. *Id.* at 145. That is not the case here—Appellant is relying on a provision that only authorizes the Attorney General to obtain records in a field in which the executive’s authority is limited, and circumscribes the types of records available by requiring that they come “into the possession” of the election official.¹⁰ *See Benson III*, 187 F.4th at 467 (Murphy, J., concurring in denial of reh’g en banc) (DOJ not entitled to request “all voting records”).

Third, and as the district court found, accepting Appellant’s argument would create an irreconcilable tension within the statute, as the requirement that the SBOE “preserve[]” and refrain from “alter[ing]” the defined records, *see* 52 U.S.C. § 20702, would conflict with New York’s responsibilities under the NVRA and HAVA that require almost constant alteration of the SVRL. JA450-51. HAVA and the NVRA require that states have general programs for list maintenance—in other words, systems to make sure the lists are accurate, by developing dynamic processes to add newly registered and eligible voters and remove those who become ineligible.

¹⁰ While the CRA encompasses a much smaller universe of potential records, it also accommodates concerns about the release of private information. Even in *Lynd II*, the Fifth Circuit recognized, “we are not discussing confidential, private papers and effects. We are, rather dealing with public records which ought ordinarily to be open to legitimate reasonable inspection and which by nature relate directly to the most vital of all public functions— the franchise of the citizen.” 306 F.2d at 231.

See 52 U.S.C. § 20507(a)(4) (NVRA); 52 U.S.C. § 21083(a)(2)(A)(ii) (HAVA). Appellant relies on some of these provisions. *See* Appellant’s Br. at 6. The NYSVoter List is something created and consistently maintained by the State of New York, particularly the SBOE. *See* N.Y. Elec. Law §§ 5-614(1), (4)-(8), (14), 5-400(2)(d), 5-704, 5-708; N.Y. Comp. Codes R. & Regs. tit. 9, §§ 6217.8, 6217.10(d). If the NYSVoter List qualified as a record covered by the CRA, the SBOE would face opposing and mutually exclusive requirements under the NVRA and HAVA, which require that states alter SVRLs to keep them updated, and the CRA, which forbids that same record’s alteration. Courts should not interpret statutes in a manner that leads to conflicts between them. *See, e.g., Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 511 (2018).

Appellant’s attempts to avoid this plain reading are unpersuasive. “Alter,” as used within 52 U.S.C. § 20702, means more than activity that would make an SVRL “unavailable, inaccessible, or inaccurate.” Appellant’s Br. at 34. In common usage, it would encompass any change, including those required by regular list maintenance. *See Alter*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/alter> (last visited Sep. 28, 2026) (“to change partly but usually not completely”); *Folger Adam Co. v. PMI Indus., Inc.*, 938 F.2d 1529, 1534 n.6 (2d Cir. 1991) (“A common synonym for ‘alter’ is ‘change.’”) (citation omitted). Conversely, interpreting “alter” to be synonymous with the other words surrounding

it in the statute would, again, read it out of the statute. *But see Bell*, 218 F.3d at 91. As a result, Appellant’s argument regarding “willful” is also without merit—if the SBOE knows that altering the NYSVoter List violates the CRA, it would meet even Appellant’s cramped definition and be exposed to potential criminal liability. *See Bryan v. United States*, 524 U.S. 184, 191-92 (1998) (conduct is willful where “defendant acted with knowledge that his conduct was unlawful” (quoting *Ratzlaf v. United States*, 510 U.S. 135, 137 (1994))). The district court, therefore, correctly concluded that the most harmonious (and common sense) way to interpret 52 U.S.C. § 20701 is to cover those records which an official receives from an outside source and, therefore, which they have a duty to maintain unchanged for the specified period. *See also United States v. Copeland Hanzas*, No. 2:25-cv-00903, 2026 WL 2754349 (D. Vt. Sep. 17, 2026).

Fourth, affirming the district court’s holding on this point does not conflict with the NVRA’s separate provision that requires disclosure of the *redacted* SVRL, *see* Section V, *infra*, because the statutes differ in several ways. *See Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 47 (1st Cir. 2024). The NVRA does not include the “comes into possession” language that Congress chose to include in the CRA. A record for purposes of the relevant provision of the NVRA is instead defined by the phrase “concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.”

52 U.S.C. § 20507(i)(1); *see also Benson II*, 179 F.4th at 480 (“[T]hat statewide voter registration lists may qualify as records under the NVRA tells us nothing about whether such lists are records that come into the possession of election officers under Title III.”); *United States v. Fontes*, 832 F. Supp. 3d 944, 952-53 (D. Ariz. 2026). Far from an “unnatural reading,” Appellant’s Br. at 22, then, exempting an SVRL (or other working records that an election official may create in the course of carrying out their duties) from the CRA is entirely sensible—given Congress’s concerns that officials were suppressing or destroying voter registration applications or other materials that were submitted to them,¹¹ Congress sought to ensure that such records would be preserved. Likewise, where Congress wanted to make sure that records that officials were likely to create would be available for inspection, as in, 52 U.S.C. § 20507(i)(1), it declined to include the phrase “come into possession” or anything similar.

¹¹ Appellant’s opening brief repeatedly criticizes the district court’s description of records which do fall within Title III as documents as those from “prospective voters.” Appellant’s Br. at 11, 21-22, 30. As an initial matter, this language is from *Benson I*, 819 F. Supp. 3d at 768-69, and the district court here (as with the court in that case) was not called upon to determine whether an election official may “come into possession” of records from some *other* source. Moreover, as Appellant concedes, the types of documents described in Title III are all records that one would expect prospective voters to provide. Appellant’s Br. at 21-22 (citing 52 U.S.C. § 20701). In any event, this question is not relevant to whether a record which never “comes into” the SBOE’s possession—because the SBOE created it—is within the scope of the statute.

Appellant is correct that “this Court should ‘begin[] and end[] with the text.’” Appellant’s Br. at 16 (alterations in original) (quoting *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545, 553 (2014)); *see also* Appellant’s Br. at 47. Here, Title III requires that, for a record or paper to fall within the scope of the statute, it must have been transferred to, or received by, the election official—it must “come into his possession.” 52 U.S.C. § 20701.¹² The NYSVoter List is not such a record.

B. The legislative history and purpose of the CRA also support a holding that the SVRL cannot be the subject of a Title III demand.

The history and purpose of the CRA also counsel against requiring disclosure of the unredacted SVRL to Appellant. Congress passed the CRA to ensure retention of certain records and to allow DOJ to seek injunctive relief against recalcitrant elections officials who denied individuals the right to vote. At the time of the CRA’s passage, elections officials in parts of the country often denied Black Americans the

¹² Appellant’s reference to Judge Jordan’s concurrence in *Garcia-Bengochea v. Carnival Corporation*, Appellant’s Br. at 18, is misleading, and that opinion only undercuts Appellant’s case. 57 F.4th 916, 933 (11th Cir. 2023) (Jordan, J., concurring). Nothing in that opinion equates “acquire” with mere possession but, rather, declines to distinguish between items gained through “passive inheritance” and gained “through affirmative efforts.” *Id.* In either respect, Judge Jordan’s definition would require some sort of transfer in order for an actor to “acquire” anything. *Id.*; *see also Huddleston v. United States*, 415 U.S. 814, 823 (1974) (“‘[A]cquisition,’ as used in [18 U.S.C.] § 922(a)(6), is not ambiguous, but clearly includes any person, by definition, who ‘come[s] into possession, control, or power of disposal’ of a firearm.”). Acquisition, like coming into possession, requires some sort of transfer, which is not the case with the NYSVoter List.

right to vote. *United States v. Evans*, No. 25-cv-4403 (RDM), 2026 WL 2267774, at *8-9 (D.D.C. Aug. 6, 2026). The statute’s purpose is to protect individual voting rights; it was “designed to protect access to the ballot in jurisdictions with patterns or practices of denying [voting] access based on race.” *Allen v. Milligan*, 599 U.S. 1, 47 (2023) (Thomas, J., dissenting). Prior to the CRA, some states and localities engaged in a variety of techniques to prevent eligible Black voters from voting. “One of the many techniques used to keep Black voters from the polls was to reject would-be registrants for insignificant, hyper-technical errors in filling out application forms.” *Pa. State Conf. of NAACP Branches v. Sec’y Commonwealth of Pa.*, 97 F.4th 120, 126 (3d Cir. 2024). During this time, “some southern officials, in order to hamper investigations by the Department of Justice and the Civil Rights Commission, had been destroying or impounding voting and registration records.” Daniel M. Berman, *A Bill Becomes a Law: Congress Enacts Civil Rights Legislation*, at 9; *see also 1963 Report of the United States Commission on Civil Rights*, at 16. Congress passed the CRA to strengthen the Civil Rights Act of 1957, which had “authorized the Attorney General to seek injunctions against public and private interference with the *right to vote on racial grounds*.” *South Carolina v. Katzenbach*, 383 U.S. 301, 313 (1966) (emphasis added); *see generally Evans*, 2026 WL 2267774, at *8-9 (discussing history of CRA).

The historical record makes clear that it was this type of voter-generated record that particularly concerned Congress, because it was those precise records which local officials had kept from the Commission on Civil Rights. Specifically, the Commission repeatedly subpoenaed individual voter registration records, only to be stymied by intransigent local officials. *See generally* Br. for Historians J. Morgan Kousser *et al.* as *Amici Curiae*, *United States v. Benson*, No. 26-1225 (6th Cir. Apr. 20, 2026), Dkt. 72. Congress, therefore, passed the CRA with a singular purpose—guaranteeing the right to vote and ensuring effective mechanisms toward that end. By contrast, allowing DOJ unfettered access to *any* voting-related documents, with little-to-no judicial review, exceeds the statutory purpose of the CRA—which is an important, but limited federal statute intended to address a specific issue—to remedy unlawful vote denial. Appellant says that it has demanded the unredacted NYSVoter List for the purpose of determining compliance with the list maintenance provisions of NVRA and HAVA, yet has not indicated in any way that it has concerns that New York is denying the right to vote. Thus, the legislative purpose of passing the CRA is not implicated by the Appellant’s request, which supports the district court’s holding.

Further, Appellant’s position would create federalism concerns by transferring decision-making over aspects of election administration from states to the federal government. *See United States v. Bellows*, 834 F. Supp. 3d 113, 126 (D. Me. 2026)

(“Finally, giving Title III the construction that the United States requests would also require me to turn a blind eye to traditional principles of federalism and how those principles have found expression in American elections—the backdrop against which Congress enacted the NVRA and HAVA.”). Both the history and context of the CRA, then, belie Appellant’s argument.

C. Title III does not create an officer-specific duty.

Appellant’s argument that Title III creates an “officer-specific duty,” Appellant’s Br. at 30-32, is illogical.

First, Appellant’s argument is contrary to how the law handles public officials. Suits against public office-holders in their official capacities under federal statutes generally relate to the conduct of the office, and not the individual. *See Hafer v. Melo*, 502 U.S. 21, 25 (1991). Conversely, “a statute requires a specific officer (and only that officer) to perform the function only if the statute prohibits the delegation of that function.” *Kajmowicz v. Whitaker*, 42 F.4th 138, 149 (3d Cir. 2022) (citation modified).¹³ Title III, however, specifically authorizes delegation. *See* 52 U.S.C. § 20701. Appellant’s misreading of the statute, on the other hand, would create bizarre outcomes. If Title III imposed officer-specific liability, then it would be incumbent on each *individual employee* of the relevant entity to maintain each record

¹³ Appellant’s interpretation not only runs afoul of this rule but goes even further by reading the statute to apply not only to the specific officer, but the specific *person holding that office* at any given time. Appellant’s Br. at 31.

or paper described in 52 U.S.C. § 20701 that might pass through their hands, even if other employees of the same office (or the office itself) maintains it elsewhere, unless state law provides for a specific custodian. The district court’s construction of the statute, in addition to following from the plain language, avoids this bizarre result.¹⁴ *See Beason v. United Technologies Corp.*, 337 F.3d 271, 282 (2d Cir. 2003).

Second, Appellant’s sole authority for this proposition is its misreading of various concurrences and dissents in *Benson*. Appellant’s Br. at 31. The panel opinion, however, held the opposite: Michigan’s SVRL never came into Secretary of State Benson’s possession because state law requires the secretary of state, a governmental entity, to create that list. *Benson II*, 179 F.4th at 479.

Third, Appellant’s interpretation would make no sense here, where the SBOE—an agency—is both the creator and custodian of the NYSVoter List. N.Y. Elec. Law § 5-614. This is not unique—other states similarly vest custody of their SVRL in an agency or entity. *See, e.g.*, Wis. Stat. § 5.05(15); 10 Ill. Comp. Stat. 5/1A-25(a); S.C. Code § 7-5-186. Appellant acknowledges that only the SBOE possesses the NYSVoter List, and that DOJ directed its insufficient demand to that

¹⁴ The district court’s construction also avoids other difficulties that Appellant elides. For example, if the relevant official “comes into possession” of an SVRL upon taking office, *see* Appellant’s Br. at 31, are they required only to preserve that version of the SVRL for the relevant period? Are they required to maintain every version or just those received from another person in the office? Does the officer need to retain the records even after they resign or their term ends? Appellant does not address any of the issues that would follow from their interpretation.

agency. *See* Appellant’s Br. at 8 (“The BOE did not produce the full, unredacted SVRL”); *see also* JA36 (“The United States’s August 14 Letter informed the NYS Board of Elections that the Attorney General was making a demand.”). Nothing in the complaint alleges that any other person possesses the list. Since the SBOE both created and has continued to maintain the SVRL, Appellant’s “officer-specific” argument is inapposite—there is no specific officer from which Appellant could obtain the list.

D. The *Benson* decision and subsequent opinions respecting denial of rehearing en banc refute rather than support, Appellant’s position.

Appellant concedes, as it must, that the Sixth Circuit’s decision in *Benson II* held that “an SVRL is not a record subject to retention and production under Title III.” Appellant’s Br. at 28 (citing *Benson II*, 179 F.4th at 479). That court declined to hear the case en banc, meaning it remains the law in that Circuit. *See United States v. Lee*, 793 F.3d 680, 684 (6th Cir. 2015). Appellant nonetheless argues that various opinions respecting the *denial* of rehearing en banc, particularly the dissents, “suggest” otherwise, but this is error.

Most critically, Appellant misreads Judge Murphy’s concurrence, which plainly did not agree that the SVRL itself is a record within the meaning of Title III, even while acknowledging that “individual voter records” might be. *Benson III*, 187 F.4th at 465-66 (Murphy, J., concurring in denial of reh’g en banc) (“In short, neither the majority nor the dissent treated the item that the DOJ requested—the ‘current

snapshot of eligible voters’ as of July 21, 2025—as subject to preservation under § 20701.”). Judge Murphy therefore suggested that *those* records are a proper inquiry for a Title III demand, rather than the compiled SVRL. *Id.* It was this view, rather than Appellant’s argument, that garnered the support of four judges—there was no majority support for the proposition that the SVRL itself is subject to Title III. As Judge Murphy explained, and as is true in this case, Appellant has *only* sought the compiled SVRL, and *Benson II* plainly holds that such a record does not fall within the scope of Title III.

IV. New York law protecting voters’ confidential information is not preempted.

New York state law protects the sensitive information of its voters, and prohibits the public disclosure of voters’ driver’s license numbers, other DMV identifiers, and social security numbers. *See* N.Y. Elec. Law § 3-220(1); N.Y. Pub. Off. Law § 96-a; *see In re Seelig v. Sielaff*, 607 N.Y.S.2d 300 (N.Y. App. Div. 1994) (release of officers’ Social Security numbers constituted unwarranted invasion of officers’ privacy); *see also Fernandez v. State*, 992 N.Y.S.2d 158, 2014 WL 1851175, at *5 (N.Y. Ct. Cl. 2014). State law also provides for the confidentiality of registrations for certain individuals who are victims of domestic violence. N.Y. Elec. Law § 5-508.

Federal election law, including the NVRA, and state privacy laws operate together where such state privacy laws require minimal redaction of sensitive

personal identifiers, while still requiring disclosure of the underlying records. *See Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 339-40 (4th Cir. 2012); *see also Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 265-66 (4th Cir. 2021). Those privacy laws reinforce the boundaries of public inspection articulated by the courts and the Attorney General. *See id.*; Br. for the U.S. as *Amicus Curiae* at 28, *Pub. Int. Legal Found., Inc. v. Bellows*, No. 23-1361 (1st Cir. July 25, 2023) (arguing that state law limits on voter information are not preempted when they affect uses that “would not further the NVRA’s purposes,” including “bans on disseminating personal data”).

Here, Appellant’s demands fail because DOJ did not provide the requisite basis and purpose required by the CRA, and because the NYSVoter List is not a record or paper within the meaning of 52 U.S.C. § 20701. The CRA, therefore, cannot displace the protections that the people of New York, through their legislature, have guaranteed for themselves.

V. The district court properly dismissed Appellant’s other claims, which Appellant does not dispute.

Appellant’s complaint also alleged claims under the NVRA and HAVA, which the district court dismissed. JA454-60. Appellant has abandoned those claims on appeal, and this Court therefore need not revisit the dismissal of that portion of the complaint. *See Arrechea-Martinez v. Holder*, 541 F. App’x 135, 136 (2d Cir. 2013)

(summary order). The district court’s discussion of Appellant’s NVRA claim, however, illustrates another flaw in its CRA arguments.

In addressing Appellant’s NVRA claim, the district court adopted the Ninth Circuit’s reasoning in *Public Interest Legal Foundation, Inc. v. Nago*, 174 F.4th 664 (9th Cir. 2026), in which the court held that an SVRL is not subject to the NVRA’s public disclosure provision, 52 U.S.C. § 20507, which generally provides for the disclosure of “all records concerning the implementation of programs and activities” concerning list maintenance. JA455-57. While the district court considered contrary caselaw, including *Public Interest Legal Foundation, Inc. v. Bellows*, 92 F.4th at 47, it nonetheless concluded that a narrow reading of the disclosure provision avoids “the implausible suggestion that Congress intended for every member of the public to access voters’ sensitive information.” JA458 (citing *Benson I*, 819 F. Supp. 3d at 764-65). Respectfully, this was error.

As the First Circuit explained in *Bellows*, “[t]he Voter File captures voter record and voter participation history information from the [SVRL] on eligible Maine voters as of the date the Voter File is generated.” 92 F.4th at 47. Therefore, the SVRL is “the output and end result of such activities” and subject to disclosure. *Id.* The court proceeded to explain how this conclusion is required by the structure of the NVRA, including that the disclosure provision is written more broadly than other portions of the statute. *Id.* at 49. However, the First Circuit (and several district

courts) anticipated the district court’s concern here, and concluded that “nothing in the text of the NVRA prohibits the appropriate redaction of uniquely or highly sensitive personal information in the Voter File.” *Id.* at 56; *see also True the Vote v. Hosemann*, 43 F. Supp. 3d 693, 736 (S.D. Miss. 2014). Other courts have adopted the logic from *Bellows*, including its treatment of sensitive voter information. *See, e.g., Voter Reference Found., LLC v. Torrez*, 160 F.4th 1068, 1083 (10th Cir. 2025); *Oregon*, 828 F. Supp. 3d at 1100; *Public Int. Legal Found. v. Knapp*, 749 F. Supp. 3d 563, 569 (D.S.C. 2024); *Sullivan v. Summers*, 769 F. Supp. 3d 455, 463 (D. Md. 2025). And Appellant filed an amicus brief in *Bellows*, arguing both that the SVRL was within the scope of the NVRA and that the statute allowed for redaction of sensitive information. Br. for the U.S. as *Amicus Curiae* at 27-28, *Pub. Int. Legal Found., Inc. v. Bellows*. Appellant specifically argued that such redactions were necessary to avoid conflicting with other federal statutes. *Id.* at 28-29. The Fourth Circuit has also held that such redactions are preservative of the right to vote. *See Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections*, 996 F.3d at 265-66.

The holdings in *Bellows*, which the district court declined to adopt here, JA418, fully address Appellant’s and their amicus’s¹⁵ concerns regarding its ability to access SVRLs when appropriate. Appellant’s Br. at 35. Congress has already delineated how DOJ, or any other actor with concerns about list maintenance, can

¹⁵ *See* Br. of Amicus Curiae Project Civica at 10, 20, Dkt. 57.2.

obtain a state's SVRL—through the NVRA's public disclosure provision, and subject to proper redaction. And states like New York make SVRLs publicly available while protecting confidential information. *See* N.Y. Elec. Law § 3-220(1); N.Y. Pub. Off. Law § 96-a. To the extent DOJ “needs to examine both applications to register to vote and the final voting rolls,” Appellant's Br. at 36, they are available, and the SBOE has already fulfilled its obligation under the law. JA71-74.

CONCLUSION

The district court correctly dismissed Appellant's complaint and denied its cross-motion to compel, because Appellant is not legally entitled to New York's SVRL under the CRA. This Court should affirm the district court's ruling and join every other court to have considered this issue.

Respectfully submitted on September 29, 2026,

Patrick Berry
Brennan Center for Justice
at NYU School of Law
120 Broadway, Suite 1750
Tel: (646) 292-8310
berryp@brennan.law.nyu.edu

/s/ Daniel S. Lenz
Daniel S. Lenz
Katherine Hamilton
Campaign Legal Center
1333 New Hampshire Ave. NW
Suite 300
Washington, DC 20036
Tel: (202) 736-2200
dlenz@campaignlegalcenter.org
khamilton@campaignlegalcenter.org

Counsel for Intervenor-Defendant-Appellee League of Women Voters of New York State

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I hereby certify that the foregoing Appellee Brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) and LR 32.1(a)(4)(A) because, excluding the parts of the exempted by Fed. R. App. P. 32(f), this document contains 13,977 words. This response has been prepared using a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman, consistent with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. 32(a)(6).

Dated: September 29, 2026

/s/ Daniel S. Lenz
Daniel S. Lenz

CERTIFICATE OF SERVICE

I, Daniel S. Lenz, do hereby certify that on this 29th day of September, 2026, I caused a true and correct copy of the foregoing document to be served upon all counsel of record registered with the Court's ACMS system, by electronic service via the Court's ACMS transmission facilities.

Dated: September 29, 2026

/s/ Daniel S. Lenz
Daniel S. Lenz