BACKGROUND

The Attorney General of the United States brought this straightforward case to enforce the requirements of three complimentary federal statutes. Those laws, the Civil Rights Act of 1960 ("CRA"), the Help America Vote Act ("HAVA"), and the National Voter Registration Act ("NVRA"), govern voter registration and voting records pertaining to federal elections.[1] Oregon reported voter registration data to the U.S. Election Assistance Commission in the Commission's 2024 Election Administration and Voting Survey ("EAVS"), released in late June 2025. *See* Compl., ECF No. 1, at 11-12. Some of Oregon's significant data was missing. *Id.* at 12-14. The data Oregon did report to the Commission exhibited significant deficiencies on several metrics and is inconsistent with reasonable list maintenance efforts under federal law. *See id.* The United States engaged in repeated correspondence with Defendants, requesting Defendants' cooperation to address the U.S. Department of Justice's ("Department") data requests in a manner consistent with federal privacy law. Those efforts were met by delay, obfuscation, and, finally, a refusal by Defendants to produce records mandated by federal law and necessary to assess Oregon's compliance with federal civil rights laws. *See id.* at 15-19. This litigation followed.

Defendants now move to dismiss the United States' Complaint on several grounds, none of which have merit. *See* Defs.' Mot. to Dismiss & Decl. in Support, ECF Nos. 32, 33. Defendants begin with a thread-bare recitation of what they describe as the "legal standard." Defendants then ask the Court to decide this case on the merits at the pleading stage after rewriting the statute to encompass requirements omitted by Congress. This Court should decline Defendants' invitation and deny their motion to dismiss.

LEGAL STANDARDS

When considering a motion to dismiss, a court must read the complaint in the light most favorable to the non-moving party and accept all material allegations in the complaint as true. *Sanders v. Kennedy*, 794 F.2d 478, 481 (9th Cir. 1986). The court's inquiry is confined to the allegations in the complaint. *Lazy Y Ranch Ltd. v. Behrens*, 546 F.3d 580, 588 (9th Cir. 2008). A

[1] The United States has set out a detailed background of this litigation previously. *See* Mem. of Law in Opp. to Mot. To Intervene by Our Oregon, Dan DiIulo, Stephen Gomez and Emma Craddock ("Pl.'s Opp. Br."), ECF 30 at 6-11.

motion to dismiss must be denied, if the plaintiff's complaint "contain[s] sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is facially plausible, "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678. In other words, dismissal under Rule 12(b)(6) is proper only when the complaint either: (1) lacks a cognizable legal theory; or (2) fails to allege sufficient facts to support a cognizable legal theory. *Iqbal*, 556 U.S. at 678. In evaluating whether a complaint states a plausible claim for relief, a court relies on its "judicial experience and common sense." *Landers v. Quality Commc'ns., Inc.*, 771 F.3d 638, 639 (9th Cir. 2015). A motion to dismiss is viewed with disfavor and is rarely granted. *Ernst & Haas Mgmt. Co. v. Hiscox, Inc.*, 23 F.4th 1195, 1196 (9th Cir. 2022).

ARGUMENT

The three claims brought by the United States each offer overlapping and complimentary statutory authority for obtaining records from Defendants to enforce federal voter list maintenance requirements. Defendants seek dismissal of these claims ostensibly because, they argue, none of them have a plausible basis. To arrive at that conclusion, Defendants ask the Court to: (1) disregard the plain language of the statutes by injecting ambiguities that do not exist and thereby allow the Court to legislate from the bench to rewrite the provisions in a manner that suits them; (2) selectively ignore relief specified in the statutes that foreclose their defenses; and (3) make merits findings that are not only inappropriate at the motion-to-dismiss stage, but are barred altogether by one of the statutes. The clear text of the CRA, HAVA, and NVRA, and interpretative case law require that, accepting all the allegations in the Complaint as true, the United States asserts both a cognizable legal theory and has pled sufficient facts to support that theory. Finally, the privacy arguments are also not grounds on which to dismiss the Complaint. Accordingly, Defendants' Motion to Dismiss should be denied.

I. THE UNITED STATES HAS A VALID LEGAL CLAIM UNDER THE CIVIL RIGHTS ACT OF 1960.

A. The language of the Civil Rights Act of 1960 unambiguously permits the requests.

Title III of the Civil Rights Act of 1960 is entitled "Federal Election Records." CRA § 301, Pub. L. No. 86-449, 74 Stat. 86 (1960). It imposes a "sweeping" obligation on election officials to preserve and, on request, to produce registration records pertaining to federal elections. *Kennedy v. Lynd*, 306 F.2d 222, 226 (5th Cir. 1962). Section 301 provides, in pertinent part, "Every officer of election shall retain and preserve, for a period of twenty-two months from the date of [a federal election] *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 (emphasis added). Section 303 authorizes the Attorney General of the United States to compel any person "having custody, possession, or control of such record or paper" to make "available for inspection, reproduction, and copying…by the Attorney General or [her] representative." 52 U.S.C. § 20703.

Notwithstanding the CRA's plain language, Defendants argue that the Court must go outside the text of the statute to the legislative history and find that Title III is limited "to investigations of civil rights violations, namely, efforts to prevent eligible voters from voting or registering to vote for illegal reasons like racial discrimination." Defs.' Mot. to Dismiss, ECF No. 32, at 24. No such language appears anywhere in the statutory text. *See* 52 U.S.C. §§ 20701-20706. Moreover, in a decision cited by Defendants, *see* Defs.' Mot. to Dismiss, ECF No. 32, at 6, 9, the court concluded "that the prescribed standard of Section 301 is *clear and unambiguous*…." *Alabama ex rel. Gallion v. Rogers*, 187 F. Supp. 848, 855 (M.D. Ala. 1960) (emphasis added). Specifically, Title III functions as "a special statutory proceeding in which the courts play a limited, albeit vital, role." *Lynd*, 306 F.2d at 225. The only language that is required in the Attorney General's demand is that it "was made for the purpose of investigating possible violations of a Federal statute." *Coleman v. Kennedy*, 313 F.2d 867, 868 (5th Cir. 1963) (quoting "Senator Keating, one of the principal spokesmen for the bill in the Senate," at 106 Cong. Rec. 7767).

Requiring more by engrafting a requirement of racial discrimination that does not exist in the statute would violate the clear congressional mandate. Where, like here, "the language of an enactment is clear…the words employed are to be taken as the final expression of the meaning intended." *In re Dumont*, 581 F.3d 1104, 1111 (9th Cir. 2009) (quoting *United States v. Missouri Pac. R.R. Co.*, 278 U.S. 269, 278 (1929)). Well established principles of statutory construction foreclose federal courts from rewriting a statute in a manner that better suits a litigant. As the Supreme Court explained, "[t]he judicial function to be exercised in construing a statute is limited to ascertaining the intention of the Legislature therein expressed. A *casus omissus* does not justify judicial legislation." *Ebert v. Poston*, 266 U.S. 548, 554-55 (1925). "[W]here the language of an enactment is clear, and construction according to its terms does not lead to absurd or impracticable consequences, the words employed are to be taken as the final expression of the meaning intended. And in such cases legislative history may not be used to support a construction that adds to or takes from the significance of the words employed." *Missouri Pac.*, 278 U.S. at 278-79 (citations omitted). In that manner, the "judicial function [is] to apply statutes on the basis of what Congress has written, not what Congress might have written." *Connell v. Lima Corp.*, 988 F.3d 1089, 1108 (9th Cir. 2021).

As a result, the United States respectfully submits that the Court must decline Defendants' invitation to rewrite the statute to add a requirement of racial discrimination. *See Ebert*, 266 U.S. at 554 ("It is our judicial function to apply statutes on the basis of what Congress has written, not what Congress might have written.").[2]

B. The United States has sufficiently pled a claim for relief under Title III of the Civil Rights Act.

The filing of a request for federal election records under Title III by the Attorney General "is not the commencement of an ordinary, traditional civil action with all of its trappings." *Lynd*, 306 F.2d at 225. Instead, "it is … comparable to the form of a traditional order to show cause, or

[2] Defendants' recitation of what they describe as legislative history for which they seek judicial notice is, therefore, not helpful to the Court in its consideration of Defendants' Motion to Dismiss.

to produce in aid of an order of an administrative agency." *Id.* The Fifth Circuit has described in detail what the Attorney General must allege to satisfy the statute:

> Since it is a special statutory proceeding, it does not require pleadings which satisfy usual notions under the Federal Rules of Civil Procedure. All that is required is a simple statement by the Attorney General that after a [Section 303] written demand for inspection of records and papers covered in [Section 301], the person against whom an order for production is sought under [Section 305] has failed or refused to make such papers 'available for inspection, reproduction, and copying….

Id. at 225-26 (quoting 52 U.S.C. § 20703).

Under the plain language of the statute, "[t]here is no place for any other procedural device or maneuver – either before or during any hearing of the application – to ascertain the factual support for, or the sufficiency of, the Attorney General's 'statement of the basis and the purpose therefor' as set forth in the written demand." *Id.* at 226. Likewise, there is no basis in the proceedings to challenge "the reasons why the Attorney General considers the records essential…." *Id.* Rather, if the Attorney General has stated in writing the basis and the purpose of the demand, Title III is satisfied, and the records must be produced. 52 U.S.C. § 20703.

The United States has met those requirements. On July 16, 2025, the Attorney General requested that Oregon, through its Secretary of State, fill in the wide gaps of data that the state had not disclosed to the EAC, and to produce its complete voter registration list to include the HAVA identifying numbers. Compl. ¶ 34. On August 14, 2025, the Attorney General made a written demand pursuant to Title III for a current copy of Oregon's computerized Statewide Voter Registration List ("SVRL"), including each registrant's full name, date of birth, residential address, and the HAVA identifying numbers. The demand explained that the purpose was to evaluate the state's compliance with its list-maintenance requirements under federal law and described how the privacy of data would be protected and could be transmitted securely. *Id.* ¶¶ 47-51. Defendants tacitly acknowledge that DOJ provided the "statement of its purpose," required by Section 303. Defs.' Mot. to Dismiss, ECF No. 32, at 21. In a letter dated August 21, 2025, the Secretary refused to cooperate and declined to produce the requested voter records. *Id.* ¶ 55.

Conversely, Defendants argue that the United States failed to describe the basis for its request. Defs.' Mot. to Dismiss, ECF No. 32, at 21. To arrive at that conclusion, Defendants erroneously employ a hyper-technical reading of Section 303. In doing so, they deliberately ignore the detailed basis the United States provided in writing to them in its July 16, 2025, letter. That basis will be restated briefly here.

As the United States explained to Defendants in that letter, the 2024 EAVS Report revealed several anomalies in Oregon's voter registration data inconsistent with reasonable list maintenance efforts. The letter described how Oregon reported nearly as many registered voters as the entire citizen-voting-age population in Oregon, with a registration rate in 2024 of 95.3 percent of the citizen-voting-age population. Compl. ¶ 39. Further, the letter noted that the ratio of active registered voters to the citizen-voting-age population has been unusually high for several years, with Oregon reporting a registration rate of 93.3 percent of citizen voting age population in 2022 and 93.1 percent in 2020. *Id.* Oregon reported that it had removed 111,621 voters, or 3.6% of registered voters, from the list of eligible voters, which is well below the national average of 9.1%. *Id.* ¶ 41. Even more notable, Oregon reported that it removed only 4,417 voters out of a total of 3,060,374 registered voters for failure to respond to a confirmation notice and not voting in the two consecutive federal elections following the notice. *Id.* ¶ 42. Oregon had the lowest number of removals in this category, compared to the total number of registered voters of all states in the survey. *Id.* In Oregon's second letter to the Department, the State still had not explained what its current data-collection, data-entry, and reporting procedures were across all Oregon's counties and what changes were being implemented, how, or when. *Id.* at ¶¶ 38-45. Taken together, the data that Oregon reported to the EAC raised several red flags that necessitated further investigation. Therefore, the Attorney General requested that Oregon, through its Secretary of State, fill in the wide gaps of data that the state had not disclosed to the EAC, and produce its complete voter registration list to include the HAVA identifying numbers. *Id.* ¶ 51.

Defendants deride the serious gaps and red flags in their own voter registration data as being somehow insufficient to "fall within Title III's scope." Defs.' Mot. to Dismiss, at 21. As support for their contention, they take out of context a quote from a Fifth Circuit decision that

statistical evidence "was 'a matter which does not bear any particular importance to the present inquiry.'" *Id.* (quoting *Kennedy v. Bruce*, 298 F.2d 860, 863 & n.2 (5th Cir. 1962)). What Defendants leave out is the reason why evidence bearing on the Attorney General's purpose and basis is immaterial. In *Lynd,* the Fifth Circuit explained, "On the filing of this simple statement by the Attorney General, the Court is required to treat it as a summary proceeding." 306 F.2d at 226. By doing so, the statistics included in the Department's July 10, 2025, letter became immaterial beyond satisfying Section 303's requirement for a basis for the request. Under the language of the statute, "the factual foundation for, or the sufficiency of, the Attorney General's 'statement of the basis and the purpose' contained in the written demand, [Section 303], *is not open to judicial review or ascertainment*." *Id.* (emphasis added). [3]

To summarize, the United States identified the basis for its request for federal election records by identifying, in its July 16, 2025, letter to Defendants, voter registration metrics reported by Oregon that raise serious concerns regarding the state of its SVRL. When Defendants failed to produce those records, the United States followed up with a written statement of its purpose: to evaluate Oregon's compliance with list-maintenance requirements under federal law in its August 14, 2025, letter. That correspondence satisfies the plain language in Section 303 of the CRA for a "demand in writing by the Attorney General or [her] representative" including "a statement of the basis and the purpose therefor." 52 U.S.C. § 20703. *See generally Coleman*, 313 F.2d at 868 (a written demand "made for the purpose of investigating possible violations of a Federal statute," such as HAVA and the NVRA, is sufficient to comply with Section 303).

C. The United States is entitled to unredacted "copying" and "reproduction" of Defendants' federal election records.

Section 303's language provides that "[a]ny record or paper required by [Section 301] of this title to be retained and preserved shall" upon written demand by the Attorney General or her

[3] Amici also speculate that the Department is collecting the SVRL for nefarious purposes. As explained in Section IV of this brief, the United States is complying with the Privacy Act, and the use of the data is limited to the enforcement of the list maintenance requirements in HAVA and the NVRA. "[I]t is pure speculation to suggest that the Census Bureau will not comply with its legal obligations to ensure the privacy of respondents' data…." *Elec. Priv. Info. Ctr. v. U.S. Dep't of Commerce*, 928 F.3d 95, 102 (D.C. Cir. 2019) (citation omitted).

representative, stating the basis and purpose, "be made available for inspection, *reproduction, and copying*…" 52 U.S.C. § 20703 (emphasis added). Records that must be produced to the United States pursuant to this demand cannot be contested as long as the records fall within Section 301's broad definition: "all records and papers which come into [the officer of election's] possession relating to any application, registration, payment of poll tax, or other act requisite to voting" in a federal election "for a period of twenty-two months from the date of any general, special or primary election" for federal office. 52 U.S.C. § 20701. As the Fifth Circuit explained in *Lynd*, "the scope of the order to produce" is "not open to judicial review or ascertainment." 306 F.2d at 226. "This is so because the papers and records subject to inspection and demand have been specifically identified by Congress," as set out in Section 301. *Id.* "The incorporated standard of [Section 301] is *sweeping*." *Id.* (emphasis added). The question is only "open for determination" by the Court, if "a genuine dispute … arises as to whether or not any specified particular paper or record comes within this broad statutory classification of 'all records and papers … relating to any … act requisite to voting…." *Id.*

Defendants do not contest that the request by the United States for Oregon's SVRL for the statutory 22-month period comes within Section 301's "sweeping" scope. *Id.* Apparently acknowledging the futility of their position, Defendants again ask the Court to legislate two limitations that are conspicuously absent from Title III: that the Attorney General be restricted to "inspection" that is limited to "a redacted version of Oregon's voter registration list…." Defs.' Mot. to Dismiss, ECF No. 32, at 22. The Tenth Circuit recently ruled against New Mexico's use restrictions on voters' data when disclosure was demanded by a non-profit party. *Voter Reference Found., LLC v. Torrez*, No. 24-2133, 2025 WL 3280300, at *7-10 (10th Cir. Nov. 25, 2025). The court held that New Mexico's use restrictions and data restriction ban were obstacles to the accomplishment and execution of the full purposes and objections of Congress and were preempted by the NVRA. *Id.* at *10, *14. The weakness of Defendants' position is so transparent that they are not even troubled to explain how the Court can limit the United States to "inspection" in the face of Section 303's references to "reproduction" and "copying." Defs.' Mot. to Dismiss, ECF No. 32, at 22. Were Defendants' position to be adopted, it would eviscerate Title III. The

Attorney General can only meaningfully investigate and enforce the list maintenance requirements of HAVA and the NVRA by having access to the voter identification numbers required by federal law. For each voter, that includes their driver's license number, last four digits of their social security number, or other identifying number. *See* 52 U.S.C. § 21083(a)(5)(A). That information is necessary to identify duplicate registration records, registrants who have moved, ineligible registrants, and registrants who have died or otherwise are no longer eligible to vote in federal elections.[4] There is no question that enforcement of the list maintenance requirements of HAVA and the NVRA are for "the purpose of investigating possible violations of a Federal statute." *Coleman*, 313 F.2d at 868.

Indeed, the data the United States has requested under the CRA is the same that twenty-five states and the District of Columbia routinely share through the Electronic Registration Information Center, ("ERIC"), to facilitate their compliance with federal list-maintenance requirements.[5] Similarly, private parties have been granted access to even more detailed voter data than what the United States has requested where necessary to bring actions to enforce federal rights. *See Coal. for Open Democracy v. Scanlan*, No. 24-CV-312-SE, 2025 WL 1503937, at *2 (D.N.H. May 27, 2025) (ACLU compelled production of "copy of the New Hampshire statewide voter database and all documents concerning the use of the statewide voter database, including instruction manuals or other guides concerning the data fields contained in the database and their correct interpretation."), *appeal docketed*, No. 25-1585 (1st Cir. June 17, 2025).

Consequently, United States is entitled to production of Oregon's unredacted SVRL under the plain language of Section 303 of the CRA. *See* 52 U.S.C. § 20703.

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[4] *See generally* 52 U.S.C. § 20507(a)(4) ("In the administration of voter registration for elections for federal office, each State shall – (4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of – (A) the death of the registrant; or (B) a change in the residence of the registrant…."); 52 U.S.C. § 21083(a)(4) ("The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including… (A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters….").

[5] *See* ERIC, ERIC Overview, *available at* https://ericstates.org/ (last visited Dec. 3, 2025).

II. THE UNITED STATES HAS A VALID LEGAL CLAIM UNDER THE NVRA.

Defendants' motion to dismiss the NVRA claim must be denied. The plain text of Section 8(i) of the NVRA requires states to make available "all 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). That includes the voter registration list, which necessarily must be used to ensure the accuracy of the official list of eligible voters, and is the some of the best evidence of a state's voter list maintenance efforts. The United States has properly alleged in its Complaint that Defendants have failed to engage in reasonable list maintenance efforts and have refused to produce records associated with those efforts. For the same reasons described in the preceding discussion, all the well-pled allegations in the Complaint must be accepted as true. As stated repeatedly throughout this brief, Oregon's voter registration metrics are strongly suggestive of list maintenance violations. It is wholly improper to determine, based upon the pleadings alone, that Defendants have "complied with the requirements of the NVRA." Defs.' Mot. to Dismiss, ECF No. 32 at 15.

Finally, it is unnecessary to address in any detail the citations of authority that Defendants can deny the United States what they describe as "highly sensitive personal information" of voters. *Id.* at 22. All the decisions that Defendants summarize involved efforts by *private organizations* to obtain that data and accordingly are distinguishable from this action. Here, the United States is seeking certain data in the SVRL in its efforts to enforce the NVRA in Oregon. As discussed in the final section, federal privacy laws that apply to the Attorney General and the Department of Justice ensure that no sensitive voter data or information will be used, disseminated, nor disclosed in a way inconsistent with the law. Private plaintiffs are not subject to those federal privacy laws, which makes the analysis of whether to redact some personally identifiable information different. Consequently, Defendants' motion to dismiss the NVRA claim should be denied.[6]

[6] Contrary to what Defendants argue on page 15 of their brief, to the extent Oregon law purports to bar the United States from obtaining federal election data necessary to enforce the NVRA, that conflicting law is preempted. *Voter Reference Found., LLC*, at *7-10.

III. THE UNITED STATES HAS A VALID LEGAL CLAIM UNDER HAVA.

A. Defendants have failed to engage in reasonable list maintenance practices resulting in an inaccurate voter roll.

Congress enacted HAVA "to improve our country's election system." H.R. Rep. 107-329(I) at 31 (2001). The Act recognizes that "the federal government can play a valuable [role]" in assisting states modernize their elections systems. *Id.* at 32. HAVA requires states to implement a computerized SVRL that is coordinated with other state agency databases. *See* 52 U.S.C. § 21083(a)(1)(A). It also establishes "[m]inimum standard[s] for accuracy of State voter registration records." 52 U.S.C. § 21083(a)(4). Under HAVA Section 303, a state's "election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly," including by use of a "system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters" and "[s]afeguards to ensure that eligible voters are not removed in error from the official list of eligible voters." *Id.* HAVA's list maintenance requirements apply to all states, including Oregon. *See Colón-Marrero v. Vélez*, 813 F.3d 1, 14 (1st Cir. 2016) (collecting citations).

Defendants acknowledge HAVA includes list maintenance requirements that apply to all states, which includes Oregon. *See* Defs.' Mot. to Dismiss, ECF No. 32, at 22. Nevertheless, Defendants assert that the United States "cites no HAVA provision for authority to demand documents." *Id.* at 17. Defendants cite to *Peters v. United States*, 853 F.2d 692, 696 (9th Cir. 1988) to assert that the "authority of government agency to issue document request 'created solely by statute.'" *Id.* *Peters* is inapposite. *Peters* concerns subpoena authority, not a request for information the United States did here. *Peters*, 853 F.2d at 696 ("authority of an administrative agency to issue *subpoenas for investigatory purposes* is created solely by statute.") (emphasis added).

The balance of Defendants' arguments asks the Court to determine that Defendants comply with HAVA on the face of the incomplete and self-serving responses they provided in their correspondence with the United States. Compl. ¶¶ 52-64. Defendants misunderstand the HAVA count in the Complaint. The allegation is that Oregon is failing to provide information that would allow the United States to determine compliance with HAVA.

The United States has reason to be concerned about whether there may be HAVA violations. The Complaint identified numerous anomalies from voter registration data that Oregon reported in the 2024 EAVS Report, which show that Defendants' list maintenance program may not comply with HAVA. Id. ¶¶ 38-44. The Court must read these allegations in the Complaint in the light most favorable to the United States and accept all those material allegations as true. *Sanders*, 794 F.2d at 481. At this early juncture, the Court can reasonably conclude that the incomplete data provided by Oregon to the EAC makes the request for the SVRL "plausible on its face" to help determine compliance with HAVA. *Iqbal*, 556 U.S. at 678. The United States plainly has stated a cognizable legal theory under HAVA and pled sufficient facts to support that theory. As a result, dismissal is inappropriate. *Id.* Defendants' motion to dismiss the HAVA claim, therefore, must be denied.

B. HAVA does not have a public disclosure requirement, because, unlike the NVRA, there is no private right of action under the Act.

Defendants further argue that the HAVA claim must be dismissed because HAVA has no standalone, public disclosure provision. Defs.' Mot. to Dismiss, ECF No. 32, at 16. That is true, and it explains why the United States is entitled to the federal election records it has demanded through its HAVA claim. The only enforcement provision in HAVA authorizing a cause of action in federal court is found at Section 401, which provides that enforcement of the Act is vested solely in the Attorney General. *See* 52 U.S.C. § 21111. Senator Dodd of Connecticut, a HAVA conferee and sponsor, recognized that the Act did not have a private right of action. *See* 148 Cong. Rec. S10512 (daily ed. Oct. 16, 2002). As a result, the Supreme Court has held that private parties may not enforce Section 303, including requests for records under that provision. *See Brunner v. Ohio Republican Party*, 555 U.S. 5, 6 (2008) (per curiam) ("Respondents, however, are not sufficiently likely to prevail on the question whether Congress has authorized the District Court to enforce § 303 in an action brought by a private litigant to justify the issuance of a TRO."). Congress unsurprisingly did not include a public disclosure requirement, such as the one included in Section 8(i) of the NVRA, because unlike the NVRA, private parties cannot enforce

HAVA.

At the same time, however, that does not leave the United States without recourse to seek list maintenance records under HAVA. Rather, it may do so through the ordinary investigative process necessary to enforce Section 303 of HAVA. The only way to determine compliance with HAVA's requirement to provide the driver's license number or the last four digits of the Social Security Number in Section 303(a)(5)(A) is to review the SVRL to determine whether that information is being collected consistently. *See* 52 U.S.C. § 21083(a)(5)(A). Here, the CRA cases are also instructive. Under the CRA, election officials are required to preserve and produce federal election records "to facilitate the investigation … before suit is filed." *United States v. Ass'n of Citizens Councils of La.*, 187 F. Supp. 846, 847 (W.D. La. 1960) (per curiam). By comparison, the demand for records that the United States has made under HAVA falls into the conventional realm of discovery: "The chief purpose of [Federal] Rule [of Civil Procedure] … is to give a party litigant the right to have records produced after suit has been filed." *Id.* That is all the United States is doing in this case. It seeks the necessary records to establish its claim under HAVA to determine whether Defendants are violating the list maintenance requirements in Section 303 of the Act.

Accordingly, Defendants' motion to dismiss the HAVA claim should be denied.

IV. THE UNITED STATES IS COMPLYING WITH APPLICABLE PRIVACY LAWS.

Oregon fails to raise legitimate privacy issues to mandate a dismissal. The United States does not dispute that the Privacy Act applies here, and the United States is complying with those requirements. The First Amendment does not prohibit the Department's collection of voter information to assess compliance with the NVRA and HAVA. The requirement for a Privacy Impact Assessment under E-Government Act does not apply to the list maintenance activities being conducted by the United States under the NVRA and HAVA. Similarly, the Driver's Privacy Protection Act does not limit the United States' ability to conduct list maintenance activities.

A. The United States is Complying with the Privacy Act.

Defendants argue that the United States must comply with the Privacy Act, in spite of the fact that the United States has been doing just that. However, there is no requirement that the United States needs to plead its compliance with the Privacy Act in every complaint that may contain personally identifiable information.

The voter information that the Department is collecting is maintained consistent with Privacy Act protections as explained at Civil Rights Division - Department of Justice - Privacy Policy.[7] The full list of routine uses for this collection of information can be found in the systems of records notices ("SORN") titled, JUSTICE/CRT – 001, "Central Civil Rights Division Index File and Associated Records", 68 Fed. Reg. 47610-01, 611 (Aug. 11, 2003); 70 Fed. Reg. 43904-01 (July 29, 2005); and 82 Fed. Reg. 24147-01 (May 25, 2017). It should be noted that the statutes cited for routine use include the NVRA, HAVA, and the Civil Rights Act of 1960, and the United States made its requests pursuant to those statutes. The records in the system of records are kept under the authority of 44 U.S.C. § 3101 and in the ordinary course of fulfilling the responsibility assigned to the Civil Rights Division under the provisions of 28 C.F.R. §§ 0.50, 0.51.

Similarly, to the extent that Defendants are concerned about the transport of such data to the United States, the Department uses a secure file-sharing system, Justice Enterprise File Sharing ("JEFS"). That system implements strict access controls to ensure that each user can only access their own files and is also covered by SORNs. [8]

Moreover, the Privacy Act does not bar the disclosure of Oregon's SVRL to the United States. The Privacy Act regulates federal agencies' collection, maintenance, and disclosure of information within their own systems of records—it does not restrict the ability of state actors to share information with federal agencies. The statute's plain language confirms that it applies only to federal "agencies" as defined in 5 U.S.C. § 552a(a)(1), meaning "any executive department,

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[7] *See* https://civilrights.justice.gov/privacy-policy#:~:text=Our%20Statutes-,Privacy%20Act%20Statement,the%20scope%20of%20our%20jurisdiction.

[8] *See* JUSTICE/DOJ-014, Department of Justice Employee Directory Systems, last published in full at 74 Fed. Reg. 57194 (Nov. 4, 2009), and modified at 82 Fed. Reg. 24151, 24153 (May 25, 2017); JUSTICE/DOJ-002, Department of Justice Computer Systems Activity and Access Records, last published in full at 64 Fed. Reg. 73585-02 (Dec. 30, 1999), and modified at 66 Fed. Reg. 8425-02 (Jan. 31, 2001) and 82 Fed. Reg. 24147-01 (May 25, 2017).

military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government." 5 U.S.C. § 552(f)(1). State and local entities fall outside that definition. The Privacy Act erects "certain safeguards for an individual against an invasion of personal privacy," Pub. L. No. 93–579, § 2(5)(B), 88 Stat. 1896 (1974), only within the scope of federal agency record systems. There is no basis for Oregon to fail to disclose information to a federal agency for law enforcement purposes, particularly here, where the United States is complying with the provisions of the Privacy Act.

B. The First Amendment does not Prohibit NVRA and HAVA Enforcement.

The United States is not violating 5 U.S.C. § 552a(e)(7) of the Privacy Act by requesting Oregon's SVRL. Defendants contend that the United States violates the First Amendment, because the request for the SVRL is not "pertinent to and within the scope of an authorized law enforcement activity" under 5 U.S.C. § 552a(e)(7). Defs.' Mot. to Dismiss, ECF No. 32, at 9.

Initially, the United States made it clear that it seeks the SVRL to enforce Section 8 of the NVRA and Section 303 of HAVA regarding list maintenance. Both of those statutes were enacted pursuant to the Elections Clause and have broad mandates. *See Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1,7-9, n.1 (2013) (discussing broad scope of Elections Clause); *Mi Familia Vota v. Fontes*, 129 F.4th 691, 712 (9th Cir. 2025) (citing *Voting Rts. Coal. v. Wilson,* 60 F.3d 1411, 1413-14 (9th Cir. 1995) as rejecting a challenge to the constitutionality of the NVRA in part because "the Supreme Court has read the grant of power to Congress in Article I, section 4 [of the U.S. Constitution] as quite broad"). HAVA requires the driver's license number or the last four digits of the Social Security Number in Section 303(a)(5)(A), and the Attorney General will be assessing Oregon's compliance with that provision. *See* 52 U.S.C. § 21083(a)(5)(A). Section 8(a)(4) of 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 of eligible voters by reason of … the death of the registrant," or "a change in the residence of the registrant…" 52 U.S.C. § 20507 (a)(4). A registered voter list that includes all fields will allow for more accurate matching when determining whether a person on the voter registration list is

deceased or in finding duplicate registrations.

The work of ERIC supports this proposition. ERIC is a private organization whose mission includes, among other things, the means "to assist states in improving the accuracy of America's voter rolls," and Oregon is a member of ERIC.[9] According to ERIC's website, "Members submit dates of birth, driver's license/ID card numbers, and Social Security numbers to ERIC…." *Id.* "At least every 60 days, each member submits their voter registration data and licensing and identification data from their MVD [motor vehicle departments] to ERIC. ERIC refers to these data as Member Data. Data fields related to name, address, driver's license or state ID number, last four digits of social security number, date of birth, and activity date are required, if present. Members also submit information on current record status (e.g., is the record "active" or "cancelled"), phone number, and email address when available. These fields improve the quality of the data matching process." *Id.* List maintenance is an authorized enforcement activity, and Oregon's voter registration list is integral to that effort.

C. The E-Government Act does not bar Claims by the United States.

The E-Government Act neither authorizes dismissal of this case nor limits the United States' ability to bring suit. The E-Government Act is not applicable to the United States' enforcement of NVRA and HAVA. The United States is not initiating a new process whereby it is contacting individuals for information as contemplated by Pub. L. No. 107–347, § 208(b)(1)(A)(ii)(II), which "includes any information in an identifiable form permitting the physical or online contacting of a specific individual, if identical questions have been posed to, or identical reporting requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the Federal Government."[10] The request is made to the State of Oregon to provide a voter registration list they already maintain, pursuant to federal law to

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[9] *FAQ's*, ERIC, (Dec. 4, 2025) https://ericstates.org/faq/; *see id.*, "Which States Are Members of ERIC?" https://ericstates.org/about/; "Security" https://ericstates.org/security/

[10] The Census collects information from individuals and therefore, regularly conducts privacy impact assessments. The court found collection did not begin until the Census was mailed out to individuals in *Elec. Priv. Info. Ctr. v. U.S. Dep't of Commerce*, 356 F. Supp 85, 90 (D.D.C. 2019) dismissed on other grounds 928 F.3d 95 (D.C. Cir. 2019).

analyze their federally required list maintenance.[11]

Applying the E-Government Act to the enforcement of voting statutes would lead to an absurd result, whereby the Department of Justice would need to do thousands of Privacy Impact Assessments whenever the Department gathered any voter data to enforce the Voting Rights Act, NVRA, HAVA, or the Uniform and Overseas Citizens Voting Act (UOCAVA). Nor does the purpose of the privacy provision in the E-Government Act suggest it was meant to encompass the enforcement provisions of all voting laws where voter data is examined. *See* Pub. L. No. 107–347, § 208(a).

Even if the Court found the E-Government Act applies here—and it should not—Defendants' reliance on *Elec. Priv. Info. Ctr. v. Presidential Advisory Comm'n on Election Integrity*, 266 F. Supp. 3d 297 (D.D.C. 2017), *aff'd.,* 878 F.3d 371 (D.C. Cir. 2017) ("EPIC"), does not support dismissal of a complaint based on an alleged failure to conduct a PIA. The plaintiff in *EPIC* sought to enjoin a federal commission's collection of state voter information, claiming the commission had failed to prepare a PIA under Section 208 of the E-Government Act. The D.C. Circuit affirmed dismissal of the claim on standing grounds, finding that "As we read it, the provision is intended to protect *individuals*—in the present context, voters—by requiring an agency to fully consider their privacy before collecting their personal information. EPIC is not a voter and is therefore not the type of plaintiff the Congress had in mind." *EPIC*, 878 F.3d at 378 (D.C. Cir. 2017).

D. The Driver's Privacy Protection Act does not Bar Claims by the United States.

The Driver's Privacy Protection Act (DPPA) generally prohibits the disclosure of "personal information" obtained by a state Department of Motor Vehicles in connection with a motor vehicle record. 18 U.S.C. §§ 2721(a), 2725(1), (3), (4). The statute explicitly contains

[11] When the Civil Rights Division began use of ServiceNow (SNOW), a FedRAMP High-compliant Software as a Service (SaaS) cloud-hosting provider offering a suite of natively integrated applications designed to support Information Technology Service Management (ITSM), resource management, and shared support services, it conducted a Privacy Act Assessment ("PIA") as required by the E-Government Act. *See* Office of Privacy and Civil Liberties | DOJ Privacy Impact Assessments (visited December 4, 2025).

exceptions that permit certain governmental uses. Under 18 U.S.C. § 2721 (b)(1), disclosure is allowed "for use by any government agency … in carrying out its functions," including law enforcement or other regulatory enforcement purposes. This statutory language demonstrates that the DPPA was not intended to block all government access to DMV records.

The Supreme Court in *Reno v. Condon*, 528 U.S. 141 (2000) confirmed this principle. In that case, the court upheld the DPPA against a Tenth Amendment challenge, emphasizing that the statute regulates the use of DMV information rather than the state itself. *Id*. at 151. The court explicitly recognized that the DPPA does not restrict a state agency's use of personal information for its own functions, including enforcement and other official governmental activities. As the court stated, "The DPPA *permits* DMVs to disclose personal information from motor vehicle records for a number of purposes." *Id*. at 145.

The DPPA's prohibition is clearly not implicated in the present case. The DOJ is a government agency performing a statutorily mandated function —verifying the accuracy of voter registration records maintained by state and local entities. Under the governmental-function exemption in § 2721(b)(1), the DOJ's use of DMV-provided information is permissible, even though the information originates from a motor vehicle record. Transfers of DMV data to government agencies for official functions, including voter registration administration, are therefore consistent with the DPPA and fall squarely within the statute's exceptions.

CONCLUSION

For the foregoing reasons, the United States respectfully requests that the Court deny the Motion to Dismiss by Defendants.

DATED: December 8, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2025, a true and correct copy of the foregoing document was served via the Court's ECF system to all counsel of record.

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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. STATE OF OREGON; and TOBIAS READ, in his official capacity as the Oregon Secretary of State, Defendants.	Case No. 6:25-cv-01666-MTK DEFENDANTS' REPLY IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS

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I. INTRODUCTION

Through this lawsuit, the United States ("Plaintiff") attempts to require the Oregon Secretary of State and the State of Oregon ("Defendants") to turn over voter registration records that include Oregonian's sensitive data and protected First Amendment activity. Plaintiff, however, is prohibited from collecting or maintaining the requested information by federal privacy laws. Even if Plaintiff satisfied the requirements of the privacy laws, the three laws the United States relies on, the National Voter Registration Act ("NVRA"), the Help America Vote Act ("HAVA"), and Title III of the Civil Rights Act ("CRA" or "Title III"), do not allow Plaintiff to obtain that private and sensitive information about Oregon voters. Plaintiff misunderstands the purpose, application, and scope of those laws, and it has not stated a claim for relief under any of them. This Court should grant Defendants' Motion to Dismiss.

II. ARGUMENT

Plaintiff does not state a claim for relief. First, it has not complied with the applicable privacy laws, and that alone is grounds for dismissal.[1] Second, it has not alleged a claim under the NVRA because the NVRA does not require Defendants to disclose an unredacted copy of the electronic statewide voter list. Third, it has not stated a claim under HAVA because it, like the NVRA, does not require disclosure of sensitive information and because Plaintiff has not alleged a plausible violation of HAVA. Finally, Plaintiff has not stated a claim under the CRA because Title III applies only to investigations about discrimination in voting under the civil rights laws, because Plaintiff has not alleged the basis and the purpose for its records demand, and because,

[1] Plaintiff, without factual support, claims that their initial demand for the unredacted voter list was "met by delay, obfuscation, and finally a refusal by Defendants to produce records." Pl.'s Resp., ECF 57, at 5. This statement is both unfair and untrue. In Plaintiff's August 14, 2025 letter, it acknowledged that the Defendant's response has "not reached it deadline." Castelli Decl. at Ex. 2, ECF 32-2. That letter asked for a response by August 21, 2025. *Id*. Defendants responded on August 21 with some of the information requested and offered to provide the redacted voter list and other protected data if Plaintiff complied with the applicable privacy laws. *See* Castelli Decl. Ex. 3, ECF 32-3. Plaintiff responded with this lawsuit.

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even if it had, Title III does not entitle Plaintiff to the records that it seeks in the form it seeks them. Therefore, Plaintiff has not stated a claim for relief and this Court should dismiss its claims.

A. The United States has not complied with the applicable privacy laws.

The Court should dismiss this case because Plaintiff has failed to plead that it is in compliance with federal privacy laws.

1. The Privacy Act prevents Plaintiff's indiscriminate data collection.

Plaintiff fails to rebut Defendants Privacy Act arguments. The Privacy Act prohibits Plaintiff from seeking "record[s] describing how any individual exercises rights guaranteed by the First Amendment." 5 U.S.C. § 552a(e)(7). Plaintiff does not dispute the records it seeks fall within that description. Rather, it asserts that it can nonetheless obtain the protected records because "[l]ist maintenance is an authorized enforcement activity." Pl.'s Resp. at 20, ECF 57.

Plaintiff cites no authority to support its assertion. The Ninth Circuit takes "a *narrow* reading of 'law enforcement activities' [to] better serve[] the goal of privacy and avoid[] infringing on the overall First Amendment concerns of section (e)(7)." *MacPherson v. I.R.S.*, 803 F.2d 479, 482 (9th Cir. 1986). Accordingly, courts review "on an individual, case-by-case basis," *id.* at 484, and courts require the government to show "good reason to believe" the records are "relevant" to the claimed law enforcement basis, *Garris v. F.B.I.*, 937 F.3d 1284, 1299 (9th Cir. 2019) (citation omitted). By contrast, Plaintiff seeks to collect individualized data from *all* Oregon voters, supposedly to enforce (1) HAVA's requirement that states collect driver's license numbers or social security numbers, and (2) the NVRA's requirement that states conduct a general voter list maintenance program. Pl.'s Resp. at 19–20, ECF 57. The full, unredacted voter registration list is neither "pertinent to" nor "within the scope" of either enforcement purpose. Plaintiff does not plead a "good reason to believe" otherwise. *Garris*, 937 F.3d at 1299 (explaining that the government's burden is not met by a "remote possibility" that records would provide a "minuscule" "potential advantage" in an investigation); *see* 5 U.S.C. § 552a(e)(1).

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Even if Plaintiff passes that barrier, it identifies no qualifying System of Records Notice ("SORN"), as the Privacy Act requires. Plaintiff identifies three preexisting SORNs, but it provides no context describing why they apply. Pl.'s Resp. at 18, ECF 57. Even if this Court considers Plaintiff's bare assertion of "routine use" under the NVRA, HAVA, and Title III of the CRA, that assertion does not authorize Plaintiff's broad request for unredacted data. One SORN, concerning records "indicat[ing] a violation or potential violation of law," covers "[s]ubjects of investigations, victims, [and] potential witnesses." 68 Fed. Reg. 47,610, 47, 611 (Aug. 11, 2003). That SORN fails to "put [the] reader on notice" that Plaintiff will seize and maintain all voters' private and sensitive data nationwide. *See Ruell v. McDonough*, No. 2:23-cv-03513-JDW, 2024 WL 4771390, at *8 (E.D. Pa. Nov. 13, 2024). Plaintiff cannot rest a data-grab of this magnitude—encompassing all or nearly all registered voters in Oregon or nationwide—on a SORN limited to discrete investigations. *See Peters v. United States*, 853 F.2d 692, 699–700 (9th Cir. 1988) (blocking federal data-gathering as unreasonably overbroad).

The other SORNs Plaintiff cites fare no better. The second SORN Plaintiff relies on is an update to that first SORN, and it allows public disclosure of information after "the investigation is closed," among other irrelevant conditions. 70 Fed. Reg. 43,904, 43,904 (July 29, 2005). Those circumstances do not apply here, and the citation of that SORN suggests that Plaintiff may eventually seek to disclose registered voters' social security numbers "[t]o the local community or public." *Id.* That would certainly be inappropriate and unlawful under various privacy laws. The third SORN concerns disclosure of information after a data breach. 82 Fed. Reg. 24,147, 24,147 (May 25, 2017); *see also* 82 Fed. Reg. 24,151, 24,151 (May 25, 2017). Again, that is an irrelevant provision on which to base Plaintiff's collection of private and sensitive information related to voting.

Plaintiff next argues that because Oregon is a member of the Electronic Registration Information Center ("ERIC") and provides voter information to that organization, this somehow assuages the Privacy Act concerns. Pl.'s Resp. at 20, ECF 57. Oregon's participation is irrelevant

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to whether Plaintiff can receive the unredacted voter list under the Privacy Act. As Plaintiff points out, the Privacy Act is a limitation placed on the federal government by the federal government. *Id*. at 18 ("The Privacy Act regulates federal agencies collection, maintenance, and disclosure of information[.]"); 5 U.S.C. § 552a. Whether Oregon provides the information requested does not alleviate the restrictions the Privacy Act places on Plaintiff. Moreover, the data is provided to ERIC "after applying a cryptographic one-way hash to these data points." Compl. ¶ 57, ECF 1 (quoting https://ericstates.org/security/). Plaintiff alleges in its Complaint that ERIC is "an organization comprised of states whose stated mission 'is to assist states in improving the accuracy of America's voter rolls and increasing access to voter registration for all eligible citizens.'" *Id*. (quoting https://ericstates.org/faq/). The ERIC website, cited and quoted in the Complaint, explains further that "[t]he hashing application converts these data into what appears to be a string of random characters, making the data significantly more difficult for a potential hacker to utilize." *See https://ericstates.org/security/* (last visited December 17, 2025). If Oregon provides Plaintiff, or anyone else, the encrypted and hashed information it provided ERIC, they would not be able to read or understand it. The information Plaintiff seeks is not encrypted or "hashed."

Finally, Plaintiff's argument that the Privacy Act does not apply to states misses the point. *See* Pl.'s Resp. at 18–19, ECF 57. The Privacy Act governs Plaintiff's collection of records. 5 U.S.C. § 552a. If a federal agency has not satisfied the Privacy Act's requirements, it cannot lawfully receive the records. The Court should not make the State complicit in Plaintiff's unlawful collection of sensitive data.

2. The E-Government Act's procedural safeguards apply.

Plaintiff claims that the E-Government Act, Pub. L. No. 107-347 § 208, 116 Stat. 2899 (2002), is inapplicable because Plaintiff is "not initiating a new process" of "contacting individuals for information." Pl.'s Resp. at 20–21, ECF 57. Plaintiff argues that it is seeking voter information that Defendants already maintain. *Id.* But that argument misreads the statute,

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which requires federal agencies to conduct a privacy impact assessment before *the federal government* "initiat[es] a new collection of information" permitting "the contacting of a specific individual." Pub. L. No. 107-437 § 208(b). Plaintiff's request for private and sensitive voter information fits squarely in that description and it is thus governed by the E-Government Act. OMB Guidance also makes clear that privacy impact assessments must be "updated" when agencies obtain qualifying information "from public sources" and incorporate it "into existing information systems." OMB Guidance, M-03-22 (Sept. 26, 2003).[2] The only privacy impact assessment that Plaintiff cites is related to software it uses, not to its current effort to collect massive amounts of sensitive data related to Oregon voters. Pl.'s Resp. at 21 n.11, ECF 57. Thus, that privacy impact assessment does not satisfy the E-Government Act's requirement for Plaintiff's information collection in this case.

Plaintiff also appears to suggest that Defendants lack standing to raise the E-Government Act as an affirmative defense. Pl.'s Resp. at 21, ECF 57. But "Article III standing is a requirement that applies 'almost invariably' to plaintiffs and [Defendants] [are] in a purely defensive posture." *United States v. Torrey*, 523 F. App'x 467, 468 n.1 (9th Cir. 2013) (citation omitted). Additionally, Plaintiff claims, without supporting authority, that the E-Government Act is inapplicable to HAVA and NVRA enforcement. Pl.'s Resp. at 21, ECF 57. The E-Government Act does not exempt voter data from the privacy impact assessment requirement. It protects personal information "as agencies implement citizen-centered electronic Government." Pub. L. No. 107-437 § 208(a).

3. The Driver's Privacy Protection Act bars Plaintiff's collection of driver's license numbers.

Plaintiff asserts that its collection of private and sensitive voter data is permissible under the governmental-function exception to the Driver's Privacy Protection Act. Pl.'s Resp. at 21–22,

[2] Available at https://perma.cc/E6PW-YQTP (last visited, December 18, 2025).

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ECF 57 (DPPA).[3] Plaintiff alleges no plausible governmental use for full driver's license numbers under Plaintiff's stated purpose to use the requested voter data to evaluate compliance with the NVRA and HAVA. *See* Compl. ¶ 51, ECF 1. Plaintiff asserts only that a "government agency performing a statutorily mandated function" constitutes a governmental function for purposes of the exception. But that assertion does not address how driver's license numbers will be "*used* for the identified purpose." *See Senne v. Vill. of Palatine, Ill.*, 695 F.3d 597, 606 (7th Cir. 2012) (en banc) (describing scope of DPPA's disclosure authorization). Without alleging facts that show what driver's license numbers will be used for, Plaintiff fails to comply with the DPPA.

In short, Plaintiff fails to plead compliance with the Privacy Act and the E-Government Act. On those grounds alone, this Court should dismiss this case for failure to state a claim because Plaintiff would violate federal law by collecting the requested information.

B. The Court should dismiss Plaintiff's NVRA claim.

Plaintiff's defense of its NVRA claim fails. It asserts that it "properly alleged in its Complaint that Defendants have failed to engage in reasonable list maintenance efforts and have refused to produce records associated with those efforts." Pl.'s Resp. at 14, ECF 57. First, those assertions are legal conclusions that should not be accepted as true. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) ("[T]he tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions."). Second, nowhere in its Complaint does Plaintiff assert that Defendants have failed to engage in reasonable list maintenance efforts. Plaintiff has not alleged a claim under the list maintenance provision of the NVRA; Plaintiff's only NVRA claim is that Defendants allegedly failed to comply with the public records disclosure requirement set out in 52 U.S.C. § 20507(i). Compl. ¶¶ 65–68, ECF 1. The sole factual basis for Plaintiff's alleged NVRA claim is that Defendants have not produced the records that Plaintiff

[3] Defendants noted in their motion that the request for the unredacted voter list, including full driver's license numbers, would likely violate the DPPA. Mot. to Dismiss at 12 n.8, ECF 32. Because Plaintiff responded to that footnoted observation, Defendants respond in kind.

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seeks. But Plaintiff has no right under the NVRA to an unredacted version of all fields of the Oregon voter list, which contains sensitive and private information. *See* Mot. to Dismiss at 13–15, ECF 32. Plaintiff has not stated a claim under the NVRA because nothing in the NVRA requires a state to provide sensitive and private information to the federal government.[4]

This Court should also reject Plaintiff's assertions that the NVRA public records provision somehow applies differently to the federal government than to other litigants. Plaintiff cites no authority to support its premise. The NVRA requires states to make certain records "available for public inspection." 52 U.S.C. § 20507(i). Nothing in the text of the statute suggests that the records available for inspection vary depending on the identity of the requester. *See id.* Anyone can make a request under that provision, and courts have appropriately limited the disclosure of a voter's sensitive and private information under that provision based on a proper interpretation of the NVRA, not a plaintiff-by-plaintiff analysis. *See, e.g.*, *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 56 (1st Cir. 2024) (collecting cases interpreting the NVRA as not prohibiting states from redacting sensitive data).

Moreover, even if Plaintiff complied with applicable federal privacy laws, the NVRA would still not require Defendants to turn over that information, and Oregon law prohibits Defendants from producing certain sensitive data. In a footnote, Plaintiff asserts that any Oregon law "bar[ring] the United States from obtaining federal election data necessary to enforce the NVRA" is preempted. Pl.'s Resp. at 14 n.6, ECF 57 (citing *Voter Reference Found., LLC v. Torrez*, No. 24-2133, 2025 WL 3280300, at *7–10 (10th Cir. Nov 25, 2025)). Plaintiff's reliance

[4] Plaintiff states that "Oregon's voter registration metrics are strongly suggestive of list maintenance violations. It is wholly improper to determine, based upon the pleadings alone, that Defendants have 'complied with the requirements of the NVRA.'" Pl.'s Resp. at 14, ECF 57 (quoting Mot. to Dismiss at 15, ECF 32). But Plaintiff's selective quotation mischaracterizes Defendants' argument, which is that "Defendants have complied with the [public records] requirements of the NVRA by offering voter list information without the sensitive, personal information" that Plaintiff seeks. Mot. to Dismiss at 15, ECF 32. Defendants said nothing about the propriety of determining compliance with list maintenance requirements on the pleadings alone. This Court should reject Plaintiff's attempt at turning this lawsuit about the public records provision into a claim under the list maintenance requirements.

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on *Voter Reference Foundation* is inapposite. In that decision, the Tenth Circuit held that the NVRA preempted state laws prohibiting data sharing and certain uses of the voter list. *Voter Reference Found.*, 2025 WL 3280300 at *8–*9. In reaching that conclusion, the court expressly stated that the NVRA does not prohibit the redaction of sensitive data. *See id.* at n.14 ("To the extent the State wishes to redact appropriate personal information before providing the voter data, the NVRA does not prohibit that limitation."). *Voter Reference Foundation* not only undermines Plaintiff's preemption assertion, but it expressly supports Defendants', and every other court's, interpretation that the NVRA does not prohibit states from redacting private and sensitive voter data before releasing the voter file. This Court should reject Plaintiff's bare assertion that Oregon laws prohibiting Defendants from disclosing certain sensitive voter information are preempted.

Because the NVRA allows sensitive and personal voter information to be redacted from the voter list, Plaintiff has not stated an NVRA claim that entitles it to the requested voter information.

C. The Court should dismiss Plaintiff's HAVA claim.

Plaintiff fails to allege a plausible HAVA violation. Plaintiff's HAVA allegations are conclusory and lack factual support. Plaintiff alleges that Defendants "failed to take the actions necessary" to comply with HAVA and "failed to provide sufficient information" in response to Plaintiff's letters requesting information. Compl. ¶ 70, ECF 1. Plaintiff asked questions about alleged issues with Oregon's Election Administration and Voting Survey (EAVS) data in its letters to the Secretary prior to this litigation. *Id.*, ¶¶ 38–44. Plaintiff also claims that Defendants' failure to provide the requested information "prevents the Attorney General from determining Oregon's compliance" with HAVA's list maintenance requirements. *Id.*, ¶ 72. Even accepted as true and taken in the light most favorable to Plaintiff, those allegations do not bring a HAVA claim "across the line from conceivable to plausible." *Iqbal*, 556 U.S. at 683 (citation omitted). At most, they indicate that Plaintiff is skeptical of Defendants' compliance with HAVA's list

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maintenance requirements and is considering investigating. *See* 52 U.S.C. § 21083(a) (describing requirements for maintaining the computerized list). Those facts do not establish a violation of HAVA's requirement that states have a system of list maintenance procedures.

Plaintiff itself characterizes the HAVA claim as "Oregon is failing to provide information that would allow the United States to determine compliance with HAVA." Pl.'s Resp. at 15, ECF 57. Nothing in HAVA requires Defendants to answer Plaintiff's narrative questions or provide the requested information.[5] Nor has Plaintiff identified a HAVA provision that requires disclosure. *See* 52 U.S.C. § 21111 (providing authority to the Attorney General to bring a civil action); Compl. ¶¶ 69–72, ECF 1 (alleging a claim under 52 U.S.C. § 21083). Certainly, if Plaintiff plausibly alleged a violation of a specific provision of HAVA's list maintenance requirements, Plaintiff could seek a copy of the voter list in discovery through the normal course of civil litigation, as Plaintiff admits. *See* Pl.'s Resp. at 17, ECF 57 (describing the HAVA demand for records as within the "conventional realm of discovery"). But Plaintiff does not allege facts constituting a list maintenance claim, nor does Plaintiff seek relief that would redress a list maintenance violation: Plaintiff alleges only that it cannot currently determine Defendants' compliance with HAVA and asks this Court to require Plaintiff to provide the requested records. Compl. ¶¶ 70–72 & Prayer for Relief, ECF 1. Failure to provide records *prior* to litigation is not an independent violation of HAVA actionable in this Court. *See* Mot. to Dismiss at 16–17, ECF 32. Defendants, as co-equal sovereigns, cannot be bullied into providing sensitive voter information to the United States simply because Plaintiff demands it. Because no legal authority requires Plaintiff to provide the requested records, Plaintiff cannot state a claim on which relief may be granted.

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[5] As explained above regarding the NVRA, Oregon law prohibits the disclosure of certain sensitive voter information. As with the NVRA, HAVA does not preempt those state laws because HAVA imposes no duty to provide an unredacted voter list. *See Am. C.R. Union v. Phila. City Comm'rs*, 872 F.3d 175, 186 (3d Cir. 2017) (finding information sharing provisions in the NVRA and HAVA did not override state law related to felony disenfranchisement). Thus, HAVA does not conflict with Oregon's laws protecting sensitive voter information.

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D. The Court should dismiss Plaintiff's claim under Title III of the CRA.

The United States has not stated a claim under Title III because its records request is outside the scope of Title III and it has not provided a statement of basis and purpose. Even if it had complied with Title III, Plaintiff is not entitled to receive an unredacted copy of the voter list. Thus, this Court should grant Defendants' Motion to Dismiss.

As a threshold matter, this Court may review Plaintiff's compliance with Title III. Plaintiff argues that a records demand under Title III "is not the commencement of an ordinary, traditional civil action" and that "it does not require pleadings which satisfy usual notions under the Federal Rules of Civil Procedure."[6] Pl.'s Resp. at 8–9, ECF 57 (quoting *Kennedy v. Lynd*, 306 F.2d 222, 225–226 (5th Cir. 1962)). But Title III's text states only that a district court "shall have jurisdiction *by appropriate process* to compel the production of such record or paper." 52 U.S.C. § 20705 (emphasis added). Title III does not mention any "special statutory proceeding" or other abbreviated procedure that diminishes this Court's role to issuing a rubber-stamp approval of a records request.

In fact, since Title III was enacted in 1960, the Supreme Court confirmed that the Federal Rules of Civil Procedure govern the federal government's document demands even if a summary proceeding is authorized by statute. *See Becker v. United States*, 451 U.S. 1306, 1307–08 (1981); *see also* Fed. R. Civ. P. 81(a)(5). Two years after the Fifth Circuit's decision in *Lynd*, the Supreme Court applied the normal civil process under the federal rules to a similarly worded statute that contained "no provision specifying the procedure to be followed in invoking the court's jurisdiction." *United States v. Powell*, 379 U.S. 48, 57–58 & 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."). *Compare* 26 U.S.C. § 7604(a) *with* 52 U.S.C. § 20705. Thus, contrary to Plaintiff's assertions, the appropriate process under the

[6] Plaintiff did not assert any special procedural limitations in the Complaint in this case.

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Federal Rules of Civil Procedure is for this Court to ensure that Plaintiff has satisfied Title III's statutory requirements and that its demand satisfies a baseline level of rationality.

1. The United States has not pled a Title III claim because its asserted purpose falls outside the scope of Title III, which is limited to investigations of civil rights violations.

Plaintiff asserts that its purpose in demanding records is to "evaluate the state's compliance with its list maintenance requirements under federal law." Pl.'s Resp. at 9, ECF 57 (citing Compl. ¶¶ 47–51, ECF 1). By confirming that alleged purpose, Plaintiff concedes that it is not conducting an investigation into voting discrimination. As explained in the Motion to Dismiss, nothing in Title III nor the CRA addresses voter list maintenance or removing registered voters from the voter rolls due to death or relocation. Mot. to Dismiss at 19–20, ECF 32 (discussing the text and legislative history of Title III). Title III was enacted as a tool to enforce the voting rights laws that protect against race discrimination in exercising the right to vote. *Id.* No allegations suggest that Plaintiff is concerned about race discrimination in voting in Oregon, nor that it is investigating any discriminatory conduct.

In arguing to the contrary, Plaintiff asserts that, so long as it uses certain words in its demand—that the demand is "made for the purpose of investigating possible violations of a Federal statute"—it can demand records relating to federal elections, without limitation. Pl.'s Resp. at 7, ECF 57 (quoting *Coleman v. Kennedy*, 313 F.2d 867, 868 (5th Cir. 1963)). Plaintiff is incorrect. That reading of Title III ignores the case law construing its text, which informs what constitutes a valid statement of the basis and purpose for a Title III demand. As a comprehensive review of that case law and legislative history shows, Title III was enacted to permit review of voting records for "question[s] concerning infringement or denial of [a person's] constitutional voting rights." *Lynd*, 306 F.2d at 228; *see also* Mot. to Dismiss at 20–21, ECF 32 (quoting *United States v. Lynd*, 301 F.2d 818, 822 (5th Cir. 1962)); *Lynd*, 301 F.2d at 822 (explaining that, under Title III, the United States is entitled to a court order to inspect voting records upon asserting "reasonable grounds for belief that certain voters are being discriminatorily denied their

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voting rights in a given county"). Because a fair reading of the statute's text is consistent with the case law and legislative history, this Court should reject Plaintiff's limitless interpretation and find that Plaintiff's demand for records exceeds the scope of Title III.

2. The United States has not pled a Title III claim because it has not provided a statement of basis and purpose for its demand.

Even if Plaintiff's request were in the scope of Title III, the statute requires a statement of the basis and the purpose for a records demand. 52 U.S.C. § 20703 ("This demand shall contain a statement of the basis and the purpose therefor."). The statute's use of the definite article "the," followed by a singular noun, together with its use of the conjunctive "and" demonstrates that the Attorney General must offer "a discrete thing" to meet the "basis" requirement and a second "discrete thing" to meet the "purpose" requirement. *Niz-Chavez v. Garland*, 593 U.S. 155, 166 (2021) (describing how to interpret definite articles in a statute); *Confederated Tribes & Bands of Yakama Nation v. Yakima Cnty.*, 963 F.3d 982, 990 (9th Cir. 2020) (describing how to interpret "and" in a statute); *see also* Mot. to Dismiss at 21, ECF 32. Plaintiff fails to satisfy those statutory requirements.

Plaintiff's alleged purpose is implausible because it invokes the NVRA and HAVA list maintenance requirements, and the facts alleged fall short of substantiating Plaintiff's broad request. *E.g.*, Compl. ¶ 51, ECF 1 (alleging that "the purpose of the request is to ascertain Oregon's compliance with the list maintenance requirements of the NVRA and HAVA"). Plaintiff does not need access to the unredacted voter list to assess compliance with NVRA and HAVA list maintenance requirements, as courts have consistently held when addressing NVRA list maintenance issues. *See* Mot. to Dismiss at 13–15, ECF 32; *supra* at Section II.B. For example, voter-specific personal information, such as full birth date, social security number, or driver's license number, is not needed to assess whether Defendants are complying with the NVRA's requirement to remove voters upon death or change in residence. Nor is that line-by-line information needed to assess Defendants' HAVA list maintenance requirements. In fact,

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compliance with list maintenance requirements is principally assessed by evaluating a state's procedures, not each individual voter's data.[7]

See Pub. Int. Legal Found. v. Benson, 136 F.4th 613, 618, 624–25 (6th Cir. 2025); *Bellitto v. Snipes*, 935 F.3d 1192, 1205 (11th Cir. 2019). Because unredacted access to the statewide voter list is not necessary to assess compliance with NVRA or HAVA list maintenance requirements, that alleged purpose does not satisfy Title III's purpose requirement for Plaintiff's requested records.

Plaintiff's assertions about the "basis" for its request fare no better. First, Plaintiff concedes that the Complaint contains no basis for its request. Pl.'s Resp. at 10, ECF 57. It relies entirely on its July 16, 2025 letter to the Secretary to support its position that it has sufficiently stated grounds for its request. *Id.* That letter did not mention Title III or the CRA generally. Castelli Decl. Ex. 1, ECF 33-1. It requested the unredacted voter list and asked questions about Oregon's list maintenance processes based on EAVS data, which was a separately numerated list of questions from the request for the unredacted statewide voter list under the NVRA and HAVA. *See id*. A second letter, sent August 14, 2025, invoked Title III but did not mention the EAVS data. Castelli Decl. Ex. 3, ECF 33-3. A demand that does not reference "the basis" for the demand is insufficient under Title III. This Court should reject Plaintiff's post hoc justification of its deficient demand.

Moreover, it is implausible that alleged concerns about Oregon's EAVS data establish a ground for demanding the unredacted voter list. As explained above, the sensitive data of

[7] Plaintiff's alleged purpose and request are particularly puzzling because Plaintiff has investigated NVRA and HAVA compliance for decades without requiring states to produce an unredacted statewide voter registration list. *See, e.g.*, *United States v. Kentucky*, No. 3:17-cv-00094 (E.D. Ky. June 21, 2018), ECF 35 (DOJ Complaint in intervention); *Judicial Watch, Inc. v. Adams*, 485 F. Supp. 3d 831, 834 (E.D. Ky. 2020) (describing procedural history and intervention of United States in 3:17-cv-00094). The United States' complaint in that case alleged NVRA violations by describing the state's program, alleging specific programmatic deficiencies, and accurately articulating the NVRA's requirements. The initial information request sent to Kentucky—a letter attached as an exhibit to the complaint (ECF 35-1)—did not demand access to the state's voter registration list.

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Oregon's voters is not necessary or relevant to assessing list maintenance compliance under either HAVA or the NVRA. *See supra* Section II.D.2. Questions about list maintenance processes do not establish a ground for a demand for the unredacted voter registration list because the unredacted voter list would not answer those process and systems-based questions. Nor would it provide any information relevant to those alleged list maintenance issues that the publicly available list would not also provide.[8] Because private and sensitive voter data is irrelevant to assessing list maintenance compliance, it does not provide a basis for Plaintiff's request under Title III.[9]

Rather than explain the legitimate purpose and basis for its request, Plaintiff contends that this Court cannot scrutinize the basis of its request. Pl.'s Resp. at 10–11, ECF 57 (citing *Lynd*, 306 F.2d at 226). According to Plaintiff, "the statistics included in [its] July 10, 2025, letter became immaterial beyond satisfying [Title III's] requirement for a basis for the request."[10] *Id.* at 11. But Title III is clear—Plaintiff must provide "*the* basis" in its demand for records, not merely "*a* basis" to satisfy Title III's requirement for a valid demand. Plaintiff's demand is deficient because it does not assert a purpose or basis that supports the breadth of its demand for records. This Court should thus reject Plaintiff's Title III claim.

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[8] Plaintiff, like any member of the public, may request a copy of a redacted statewide voter list after complying with applicable privacy laws. *See* Castelli Decl. Ex. 3 at 2, ECF 33-3; Or. Rev. Stat. § 247.945.

[9] The breadth of the request and its lack of a basis or purpose related to the CRA is particularly troubling in light of the Federal Government's efforts to obtain and aggregate similar information for every state. *See* Brief of Amici Curiae Bipartisan Former Secretaries of State at 22, ECF 56; Mem. of Amicus Curiae Democratic National Committee at 7, ECF 35. As discussed in the Brief of Amici Curiae filed by sixteen other States, each state has received a request for their unredacted voter lists. Brief of Amici Curiae Maryland, et al, at 6, 11. ECF 55-1. The Amici Curiae states have also received requests for information from Medicaid and the Supplemental Nutrition Assistance Program, and the March 25, Executive Order charged federal agencies to review voter registration data and compare it to federal immigration databases. *Id.* at 7-11.

[10] Plaintiff refers to the July 10 letter in its response. No letter was sent to Oregon on July 10, 2025. The Secretary received the first letter dated July 16 and the second dated August 14. *See* Castelli Decl., Ex. 1; Ex. 2, ECF 33-1; 33-2.

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3. Even if the United States had a valid Title III demand for records, it would not be entitled to receive an unredacted voter list.

Even if Plaintiff was entitled to records under Title III, it is not entitled to the entire unredacted computerized list. Title III requires only that the Secretary make certain records "available for inspection, reproduction, and copying at the principal office of such custodian[.]" 52 U.S.C. § 20703. By its text, Title III does not require that the Secretary send Plaintiff an unredacted copy of the electronic voter list. Nothing in Title III requires Defendants to violate state law by providing the unredacted voter list to Plaintiff, and Plaintiff has not cited any authority to support its position to the contrary.[11]

The only authority that Plaintiff cites to support its position is a recent NVRA case and a motion to compel decision, neither of which address Title III. Pl.'s Resp. at 12, ECF 57. Plaintiff mischaracterizes the privacy implications in both cases. In the NVRA case, the court specifically explained that the NVRA allowed redaction of private and sensitive information. *Voter Reference Found., LLC*, 2025 WL 3280300 at *9 n.14 ("To the extent the State wishes to redact appropriate personal information before providing the voter data, the NVRA does not prohibit that limitation."). Reliance on the motion to compel case gets Plaintiff no further. That decision involved a discovery dispute where any sensitive information was subject to a protective order in a case challenging the constitutionality of changes to state voter registration laws. *See Coal. for Open Democracy v. Scanlan*, No. 24-cv-312-SE, 2025 WL 1503937, at *5 & n.5 (D.N.H. May 27, 2025) (rejecting the state's argument that concerns about protecting critical infrastructure warranted withholding the voter list and related documents from discovery "especially" because "the plaintiffs are willing to enter into a strict protective order"). Those cases, properly characterized, further support Defendants' position that it must comply with state law to protect private and sensitive information prior to sharing the voter file with Plaintiff.

[11] Plaintiff does not assert that the CRA preempts state laws prohibiting the disclosure of private information. *See* Pl.'s Resp. at 12, ECF 57. It relies only on its assertion that the NVRA preempts those state laws, which is incorrect. *See supra* Section II.B.

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Plaintiff has not stated a claim under Title III because the records demand falls outside the scope of Title III and it has not alleged a valid statement of either the basis or the purpose of its demand. Even if it had, Title III does not require Defendants to violate state law by disclosing an unredacted version of the electronic voter list. Because Plaintiff is not entitled to the records that it requests under Title III, it has not stated a claim for relief and this Court should dismiss the Title III claim.

III. CONCLUSION

Plaintiff has not complied with the Privacy Act, which is a prerequisite for Plaintiff—the federal government—to collect the requested information. Plaintiff attempts to collect and maintain information related to protected First Amendment activity and failed to issue the necessary System of Records Notice. Plaintiff's CRA claim fails because Plaintiff has not validly requested information relating to a civil rights investigation under the CRA. Plaintiff's claims also fail because the NVRA, HAVA and CRA do not require Defendants to produce unredacted copies of the voter file, nor do they authorize Plaintiff to demand the sensitive information it seeks. For the reasons above, and in Defendants' Motion to Dismiss, the Court should dismiss Plaintiff's claims.

DATED December 22, 2025.

Respectfully submitted,

DAN RAYFIELD
Attorney General

s/ Thomas H. Castelli
THOMAS H. CASTELLI #226448
Senior Assistant Attorney General
KATE E. MORROW #215611
Assistant Attorney General
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Of Attorneys for Defendants

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To: Bryce, Amanda (CRT) (b)(6)
CC: Okwesa, Carolyn (CRT) (b)(6)
Subject: RE: Voting Section -- Privacy Act Questions
Attachments: Template for States Privacy Act 2025 08 27 1030am draft.docx

Hi Amanda,

I have attached a draft template for our letter to states that have raised the issues I mentioned below. I pulled this information from our website and the Privacy Impact Assessment for JEFS. We want to make sure what we are including here is accurate, so any guidance or edits that you have would be appreciated. Thanks,

Tim

From: Mellett, Timothy F (CRT)
Sent: Tuesday, August 26, 2025 5:35 PM
To: Bryce, Amanda (CRT) (b)(6)
Cc: Okwesa, Carolyn (CRT) (b)(6)
Subject: RE: Voting Section -- Privacy Act Questions

Hi Amanda,

Thanks for looking at this. I think we were hoping to get a letter out later this week.
Yes, tomorrow afternoon would be fine to meet. Brittany Wake and Nadine Jones also should be invited.

Tim

From: Bryce, Amanda (CRT) (b)(6)
Sent: Tuesday, August 26, 2025 4:59 PM
To: Mellett, Timothy F (CRT) (b)(6)
Cc: Okwesa, Carolyn (CRT) (b)(6)
Subject: RE: Voting Section -- Privacy Act Questions

Tim,

I hope to have some follow-up response to you by next week. In the meantime, could we chat tomorrow about the discontinuance of FOIA express ? If there is time, also discuss STAPS.

Let me know if I could schedule it for tomorrow and who to invite.

Amanda Bryce
Chief Information Officer
U.S. Department of Justice | Civil Rights Division
(b)(6)
(b)(6)

From: Mellett, Timothy F (CRT) <(b)(6)>
Sent: Monday, August 25, 2025 6:19 PM
To: Bryce, Amanda (CRT) (b)(6)
Subject: Voting Section -- Privacy Act Questions

Hi Amanda,

Thanks for discussing the Privacy Act/data sharing questions the other week. We have requested voter registration lists from states to conduct searches that assess the List Maintenance of voter registration lists under the National Voter Registration Act and the Help America Vote Act (statutes that the Voting Section enforces). Some states have asked us a few Privacy Act questions because the data contains PII. At the moment, we are looking to write a letter to states that have asked the following questions:

1. Please provide a citation within the Federal Register to the system of records under which DOJ intends to collect and maintain the records it has requested.
   (We are thinking that it would be CRT-1, but we wanted to be sure, and we did not know if there would be others).
2. Please describe how DOJ plans to store, maintain, and use the requested voter registration information.
   (We can answer the "use" question but we don't know what we should say about store and maintain. Lit Support has this on the P Drive.)
3. Please explain who will have access to the information contained in the Voter Registration List.
   (Lit Support has permissions limited to managers and those attorneys and analysts working on the matters. I did not know how big of scope there could be while complying with the Privacy Act. Voting only? CRT only? DOJ only?)

Ideally, we would like to send the letters out on Wednesday. Happy to chat if you have questions. Thanks,

Tim Mellett
Deputy Chief, Voting Section
(b)(6)

DOCUMENT WITHHELD IN FULL UNDER FOIA EXEMPTION B(5).

Sent: 8/25/2025 8:32:51 PM
To: Bryce, Amanda (CRT) [A (b)(6)]
Subject: Voting Section -- Privacy Act Questions

Hi Amanda,

Thanks for discussing the Privacy Act/data sharing questions the other week. We have requested voter registration lists from states to conduct searches that assess the List Maintenance of voter registration lists under the National Voter Registration Act and the Help America Vote Act (statutes that the Voting Section enforces). Some states have asked us a few Privacy Act questions because the data contains PII. At the moment, we are looking to write a letter to states that have asked the following questions:

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Ideally, we would like to send the letters out on Wednesday. Happy to chat if you have questions. Thanks,

Tim Mellett
Deputy Chief, Voting Section

Sent: 8/26/2025 9:04:43 PM
To: Bryce, Amanda (CRT) [redacted]
CC: Okwesa, Carolyn (CRT) [redacted]
Subject: RE: Voting Section -- Privacy Act Questions

Hi Amanda,

Thanks for looking at this. I think we were hoping to get a letter out later this week.
Yes, tomorrow afternoon would be fine to meet. Brittany Wake and Nadine Jones also should be invited.

Tim

From: Bryce, Amanda (CRT) <[redacted]>
Sent: Tuesday, August 26, 2025 4:59 PM
To: Mellett, Timothy F (CRT) <[redacted]>
Cc: Okwesa, Carolyn (CRT) [redacted]
Subject: RE: Voting Section -- Privacy Act Questions

Tim,

I hope to have some follow-up response to you by next week. In the meantime, could we chat tomorrow about the discontinuance of FOIA express ? If there is time, also discuss STAPS.

Let me know if I could schedule it for tomorrow and who to invite.

Amanda Bryce
Chief Information Officer
U.S. Department of Justice | Civil Rights Division
[redacted]

From: Mellett, Timothy F (CRT) <[redacted]>
Sent: Monday, August 25, 2025 6:19 PM
To: Bryce, Amanda (CRT) [redacted]
Subject: Voting Section -- Privacy Act Questions

Hi Amanda,

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(We are thinking that it would be CRT-1, but we wanted to be sure, and we did not know if there would be others).

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Ideally, we would like to send the letters out on Wednesday. Happy to chat if you have questions. Thanks,

Tim Mellett
Deputy Chief, Voting Section
(b)(6)

Sent: 1/13/2026 4:30:38 PM
To: Neff, Eric (CRT) [(b)(6)]; Gupta, Kamran (CRT) [(b)(6)]; Wake, Brittany (CRT) [(b)(6)]
Subject: RE: Virginia rolls

1. I'll check VA periodically and update EOD.
2. Kam should handle
3. We received downloads from Mississippi, South Dakota and Tennessee (saved to network). Leaving Louisiana and Ohio.

From: Neff, Eric (CRT) <(b)(6)>
Sent: Tuesday, January 13, 2026 10:55 AM
To: Gupta, Kamran (CRT) <(b)(6)>; Hayes, Chris (CRT) <(b)(6)>; Wake, Brittany (CRT) (b)(6)
Subject: RE: Virginia rolls

Fantastic. That leaves:

1. keep as close an eye on VA upload as we can so we have EOD updates every day for the rest of the week.

(b)(5)

Much appreciated. These updates are being watched by the FO closely.

From: Gupta, Kamran (CRT) (b)(6)
Sent: Tuesday, January 13, 2026 10:46 AM
To: Neff, Eric (CRT) <(b)(6)>; Hayes, Chris (CRT) <(b)(6) Wake, Brittany (CRT) <(b)(6)>
Subject: RE: Virginia rolls

(b)(5)

Best,
Kam

From: Neff, Eric (CRT) <(b)(6)>
Sent: Tuesday, January 13, 2026 10:25 AM
To: Hayes, Chris (CRT) (b)(6) Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) (b)(6)
Subject: RE: Virginia rolls

Probably easier Kam for me to just (b)(5)

(b)(5)

From: Hayes, Chris (CRT) (b)(6)
Sent: Tuesday, January 13, 2026 10:12 AM

To: Neff, Eric (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>
Subject: RE: Virginia rolls

Eric,
Virginia has not uploaded any data to our JEFs location.

As for (b)(5) the file is too large for me to open. Kamran has better tools…I'll let him respond.

Thanks,
Chris

From: Neff, Eric (CRT) <(b)(6)>
Sent: Tuesday, January 13, 2026 9:06 AM
To: Hayes, Chris (CRT) (b)(6); Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>
Subject: RE: Virginia rolls

Can we confirm any progress on Virginia's end with the upload?

Also, got a question from the DHS/SAVE folks this morning. (b)(5)

(b)(5)

From: Hayes, Chris (CRT) <(b)(6)>
Sent: Monday, January 12, 2026 1:50 PM
To: Neff, Eric (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>
Subject: RE: Virginia rolls

Eric,
I haven't received anything. I'll send her a JEFs link shortly.

-Chris

From: Neff, Eric (CRT) <(b)(6)>
Sent: Monday, January 12, 2026 1:47 PM
To: Hayes, Chris (CRT) (b)(6) Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>
Subject: RE: Virginia rolls

Please do. I assume there has not been any acknowledgment or response that I am not aware of from Lindsay?

From: Hayes, Chris (CRT) <(b)(6)>
Sent: Monday, January 12, 2026 9:54 AM
To: Neff, Eric (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>
Subject: RE: Virginia rolls

All,
I can send Lindsay a secure JEFS link that will allow her to upload the data without completing the JEFS user form. This would be a one-time link that only permits uploads.
Please let me know if you would like me to proceed.

Thanks,
Chris

From: Neff, Eric (CRT) <(b)(6)>
Sent: Monday, January 12, 2026 9:36 AM
To: Wake, Brittany (CRT) (b)(6)
Cc: Gupta, Kamran (CRT) <(b)(6)>; Hayes, Chris (CRT) (b)(6)
Subject: RE: Virginia rolls

Yes let's start that way thanks for clarifying.

From: Wake, Brittany (CRT) (b)(6)
Sent: Monday, January 12, 2026 9:35 AM
To: Neff, Eric (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>; Hayes, Chris (CRT) <(b)(6)>
Subject: RE: Virginia rolls

Hi Eric,

Is Lindsay planning on transferring through JEFS? If so, I can send the user agreement form.

Brittany

From: Neff, Eric (CRT) <(b)(6)>
Sent: Friday, January 9, 2026 4:57 PM
To: (b)(6) virginia.gov
Cc: Gupta, Kamran (CRT) <(b)(6)>; Hayes, Chris (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Subject: Virginia rolls

All,

Introducing you to Lindsay Fisher, who is going to help with the transfer of Virginia's rolls. Two things to note:

1. This transfer is top priority over all other projects.
2. Virginia will be providing two lists, as they do not have a list that has both registration information and the DL# in it. We have already agreed that in this case, our office will expend the additional resources necessary to merge the lists as needed.

I would like to make all possible efforts to confirm that these lists get transferred by COB Monday. Either way let's make sure to have a status check at that time.

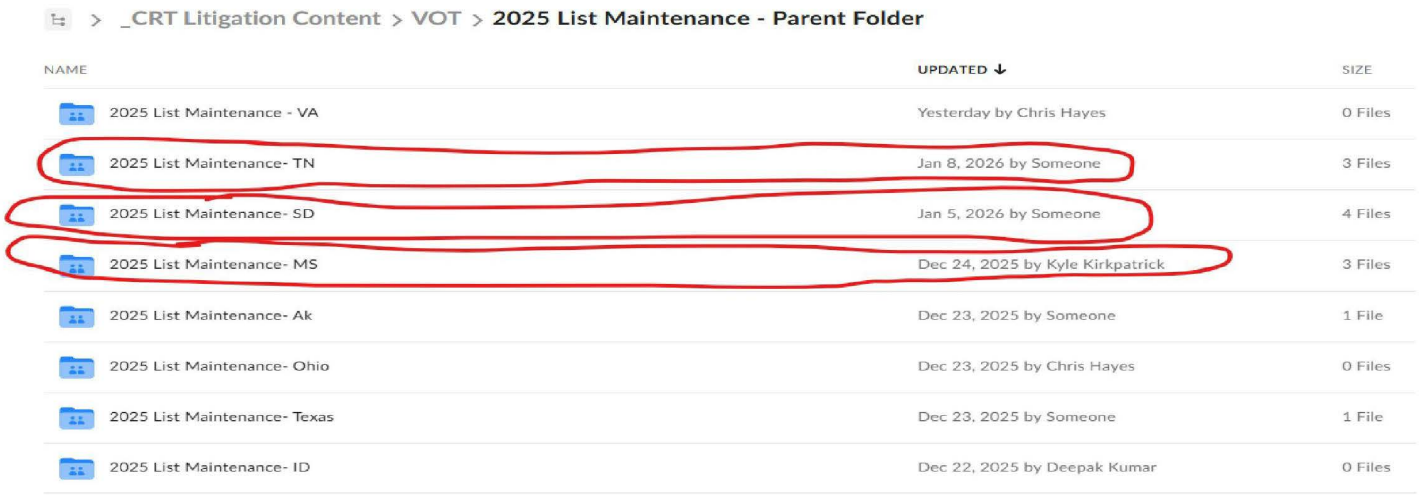
Thanks,

Eric

Eric Neff
Acting Chief
Civil Rights Division, Voting Section
Department of Justice
150 M St. NE, Ste. 8-139
Washington, DC 20002
(b)(6)
Cell: (b)(6)

Sent: 1/13/2026 6:31:34 PM
To: Neff, Eric (CRT) [(b)(6)]; Gupta, Kamran (CRT) [(b)(6)]; Wake, Brittany (CRT) (b)(6)
Subject: RE: Virginia rolls

Eric,
Sorry for any confusion! I went out to JEFs to check recent uploads and Tennessee, Mississippi, Soth Dakota, and Louisiana (b)(5)
(b)(5)



From: Neff, Eric (CRT) <(b)(6)>
Sent: Tuesday, January 13, 2026 12:15 PM
To: Hayes, Chris (CRT) <Chris.(b)(6)>; Gupta, Kamran (CRT) <(b)(6)>; Wake, Brittany (CRT) (b)(6)
Subject: RE: Virginia rolls

I'm not clear on the response to No. 3. (b)(5)

From: Hayes, Chris (CRT) (b)(6)
Sent: Tuesday, January 13, 2026 11:40 AM
To: Neff, Eric (CRT) <(b)(6)>; Gupta, Kamran (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Subject: RE: Virginia rolls

Eric,
Please see my comments highlighted below.

-Chris

From: Neff, Eric (CRT) <(b)(6)>
Sent: Tuesday, January 13, 2026 10:55 AM
To: Gupta, Kamran (CRT) (b)(6) Hayes, Chris (CRT) (b)(6) Wake, Brittany

(CRT) (b)(6)
Subject: RE: Virginia rolls

Fantastic. That leaves:

1. keep as close an eye on VA upload as we can so we have EOD updates every day for the rest of the week. I'll check VA periodically and send update EOD.

(b)(5)

Much appreciated. These updates are being watched by the FO closely.

From: Gupta, Kamran (CRT) (b)(6)
Sent: Tuesday, January 13, 2026 10:46 AM
To: Neff, Eric (CRT) <(b)(6)>; Hayes, Chris (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Subject: RE: Virginia rolls

(b)(5)

Best,
Kam

From: Neff, Eric (CRT) <(b)(6)>
Sent: Tuesday, January 13, 2026 10:25 AM
To: Hayes, Chris (CRT) (b)(6) Wake, Brittany (CRT) (b)(6)
Cc: Gupta, Kamran (CRT) (b)(6)
Subject: RE: Virginia rolls

Probably easier Kam for me to just (b)(5)
(b)(5)

From: Hayes, Chris (CRT) (b)(6)
Sent: Tuesday, January 13, 2026 10:12 AM
To: Neff, Eric (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) (b)(6)
Subject: RE: Virginia rolls

Eric,
Virginia has not uploaded any data to our JEFs location.

As for (b)(5) the file is too large for me to open. Kamran has better tools…I'll let him respond.

Thanks,
Chris

From: Neff, Eric (CRT) <(b)(6)>
Sent: Tuesday, January 13, 2026 9:06 AM
To: Hayes, Chris (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>
Subject: RE: Virginia rolls

Can we confirm any progress on Virginia's end with the upload?

Also, got a question from the DHS/SAVE folks this morning. (b)(5)

(b)(5)

From: Hayes, Chris (CRT) <(b)(6)>
Sent: Monday, January 12, 2026 1:50 PM
To: Neff, Eric (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>
Subject: RE: Virginia rolls

Eric,
I haven't received anything. I'll send her a JEFs link shortly.

-Chris

From: Neff, Eric (CRT) <(b)(6)>
Sent: Monday, January 12, 2026 1:47 PM
To: Hayes, Chris (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>
Subject: RE: Virginia rolls

Please do. I assume there has not been any acknowledgment or response that I am not aware of from Lindsay?

From: Hayes, Chris (CRT) <(b)(6)>
Sent: Monday, January 12, 2026 9:54 AM
To: Neff, Eric (CRT) <(b)(6)>; Wake, Brittany (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) <(b)(6)>
Subject: RE: Virginia rolls

All,
I can send Lindsay a secure JEFS link that will allow her to upload the data without completing the JEFS user form. This would be a one-time link that only permits uploads.
Please let me know if you would like me to proceed.

Thanks,
Chris

From: Neff, Eric (CRT) <(b)(6)>
Sent: Monday, January 12, 2026 9:36 AM
To: Wake, Brittany (CRT) <(b)(6)>

Cc: Gupta, Kamran (CRT) (b)(6); Hayes, Chris (CRT) (b)(6)
Subject: RE: Virginia rolls

Yes let's start that way thanks for clarifying.

From: Wake, Brittany (CRT) (b)(6)
Sent: Monday, January 12, 2026 9:35 AM
To: Neff, Eric (CRT) <(b)(6)>
Cc: Gupta, Kamran (CRT) (b)(6); Hayes, Chris (CRT) (b)(6)
Subject: RE: Virginia rolls

Hi Eric,

Is Lindsay planning on transferring through JEFS? If so, I can send the user agreement form.

Brittany

From: Neff, Eric (CRT) <(b)(6)>
Sent: Friday, January 9, 2026 4:57 PM
To: (b)(6) virginia.gov
Cc: Gupta, Kamran (CRT) (b)(6); Hayes, Chris (CRT) (b)(6); Wake, Brittany (CRT) (b)(6)
Subject: Virginia rolls

All,

Introducing you to Lindsay Fisher, who is going to help with the transfer of Virginia's rolls. Two things to note:

1. This transfer is top priority over all other projects.
2. Virginia will be providing two lists, as they do not have a list that has both registration information and the DL# in it. We have already agreed that in this case, our office will expend the additional resources necessary to merge the lists as needed.

I would like to make all possible efforts to confirm that these lists get transferred by COB Monday. Either way let's make sure to have a status check at that time.

Thanks,
Eric

Eric Neff
Acting Chief
Civil Rights Division, Voting Section
Department of Justice
150 M St. NE, Ste. 8-139
Washington, DC 20002
(b)(6)
Cell: (b)(6)