

No. 26-2679

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

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

v.

STEVE SIMON,

in his official capacity as Secretary of State for the State of Minnesota; STATE OF
MINNESOTA

Defendants-Appellees,

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA

**BRIEF OF *AMICI CURIAE* LOCAL ELECTION OFFICIALS AND LOCAL
GOVERNMENTS IN SUPPORT OF APPELLEES AND AFFIRMANCE**

Christine Bass
Public Rights Project
490 43rd Street, #115
Oakland, CA 94609
christine.bass@publicrightsproject.org
(510) 738-7688

Counsel for Amici Curiae

TABLE OF CONTENTS

STATEMENT OF INTEREST	1
SUMMARY OF ARGUMENT	2
ARGUMENT	4
I. COURTS PLAY A VITAL ROLE IN ASSESSING ELECTION-RELATED RECORDS REQUESTS, INCLUDING DEMANDS UNDER THE CIVIL RIGHTS ACT.....	4
A. The District Court properly exercised its authority to evaluate the DOJ’s demand	5
B. Without judicial review, local election offices and their attorneys could be overwhelmed by records demands	6
C. These requests are paired with an unprecedented threat of prosecution	12
II. THE DOJ DID NOT PROVIDE A SUFFICIENT BASIS OR PURPOSE FOR ITS DEMAND	16
A. Efforts of state and local election officials in Minnesota meet state and federal list maintenance requirements	16
B. The DOJ did not provide a sufficient basis	23
CONCLUSION	25
APPENDIX A - LIST OF <i>AMICI CURIAE</i>	25

TABLE OF AUTHORITIES

CASES

<i>Cilek v. Off. of Minn. Sec'y of State</i> , 941 N.W.2d 411 (Minn. 2020).....	11
<i>Crowley v. Nevada ex rel. Nev. Sec'y of State</i> , 678 F.3d 730 (9th Cir. 2012).....	18
<i>Fulton Cnty. Bd. of Registration & Elections v. United States</i> , No. 26-cv-02777, 2026 WL 1959461 (N.D. Ga. July 7, 2026) 11, 24	
<i>Guerrero-Lasprilla v. Barr</i> , 589 U.S. 221 (2020).....	6
<i>Minn. Voters All. v. City of Minneapolis</i> , No. 20-cv-2049, 2020 WL 6119937 (D. Minn. Oct. 16, 2020)	18
<i>Pub. Int. Legal Found., Inc. v. Simon</i> , No. 25-1703, 2026 WL 2545322 (8th Cir. Aug. 28, 2026).....	17
<i>United States v. Aguilar</i> , No. 25-cv-00728, 2026 WL 2364502 (D. Nev. Aug. 14, 2026)	6
<i>United States v. Amore</i> , 831 F. Supp. 3d 149 (D.R.I. 2026).....	18, 24
<i>United States v. Bellows</i> , 834 F. Supp. 3d 113 (D. Me. 2026)	19
<i>United States v. Benson</i> , 179 F.4th 470 (6th Cir. 2026) <i>reh'g denied</i> , 2026 WL 2364306 (6th Cir. Aug. 14, 2026)	3, 6
<i>United States v. Koski</i> , No. 26-cv-42, 2026 WL 2032532 (E.D. Va. July 14, 2026).....	6
<i>United States v. Oregon</i> , 828 F. Supp. 3d 1092 (D. Or. 2026).....	19

<i>United States v. Powell</i> , 379 U.S. 48 (1964)	5
--	---

<i>United States v. Weber</i> , 816 F. Supp. 3d 1168 (C.D. Cal. 2026).....	5, 24
---	-------

STATUTES

52 U.S.C. § 20503(b)	17
52 U.S.C. § 20507(c)(1).....	17
52 U.S.C. § 20703	16
52 U.S.C. § 20705	5
52 U.S.C. § 21083(a)(2)(A)(iii)	17
52 U.S.C. § 21083(a)(4).....	17, 19, 22
52 U.S.C. § 21083(a)(5)(A)	19
52 U.S.C. § 21083(a)(5)(B)	20
H.R. Rep. No. 107-329 (2001).....	17, 18
Minn. Stat. ch. 201	24
Minn. Stat. § 201.061, subdiv. 1a	21
Minn. Stat. § 201.061, subdivs. 1a, 3.....	21
Minn. Stat. § 201.071, subdiv. 3	20
Minn. Stat. § 201.121	20
Minn. Stat. § 201.121, subdiv. 1(f)	20, 21
Minn. Stat. § 201.121, subdiv. 2	21
Minn. Stat. § 201.13	21
Minn. Stat. § 201.145.....	21, 23
Minn. Stat. § 201.145, subdiv. 5	22

Minn. Stat. §§ 201.021–.022.....	19
----------------------------------	----

REGULATIONS

Ensuring Citizenship Verification and Integrity in Federal Elections § 2(b), Exec. Order No. 14399, 91 Fed. Reg. 17125 (Mar. 31, 2026)	12
Minn. R. ch. 8200.....	24
Minn. R. 8200.9310, Subp. 2(C).....	20

OTHER AUTHORITIES

2025 DHS Systems of Records Notice (Dec. 1, 2025)	14
Alexandra Berzon & Nick Corasaniti, <i>Initial Review Finds No Widespread Illegal Voting by Migrants, Puncturing a Trump Claim</i> , N.Y. Times (Jan. 14, 2026).....	14
Ali Swenson & Gary Fields, <i>The Justice Department Seeks Voter and Election Information From at Least 19 States, AP Finds</i> , AP News (Aug. 3, 2025).....	2
Andrew Garber, <i>Mass Voter Challenges</i> , Brennan Ctr. for Just. (July 21, 2026)	10
Brett Sholtis, ‘ <i>PA Fair Elections,</i> ’ <i>tied to powerful conservative groups, pushes to remove people from voter rolls</i> , WESA (Sept. 28, 2024)	10
Carter Walker, <i>Efforts to challenge Pennsylvania voters’ mail ballot applications fizzle</i> , Spotlight PA (Nov. 8, 2024)	10
Deena Winter, <i>Election deniers and skeptics are still skeptical, even after many worked the polls</i> , Minn. Reformer (Jan. 3, 2023)	8
Gilare Zada, <i>SF Officials Push Back as DOJ Seeks Data on Voters Removed Over Citizenship Rules</i> (July 31, 2025)	7

Jackie Manning, <i>Minnesota Supreme Court Kills Lindell Recount: He Asked for Wrong Legal Remedy</i> , Tech Times (Aug. 30, 2026)	8
Jen Fifield & Zach Despart, <i>A federal tool to check voter citizenship keeps making mistakes. It led to confusion in Texas.</i> , Tex. Tribune (Feb. 13, 2026)	14
Jessica Huseman, <i>Conspiracy theorists swamp election officials demanding records that can't prove fraud</i> , Votebeat (Sept. 12, 2022).....	8
Jessica Huseman, <i>Department of Justice Warns Election Officials They Could be Criminally Charged Over Noncitizen Voters</i> , Votebeat (July 7, 2026)	13
Jude Joffe-Block & Miles Parks, <i>DHS acknowledges the noncitizen numbers it touted on voter rolls were inflated</i> , NPR (Aug. 25, 2026)	14
<i>Justice Department Requests Access to Dominion Voting Equipment Used in Missouri in 2020</i> (Sept. 4, 2025)	7
Kaylie Martinez-Ochoa, Eileen O'Connor & Patrick Berry, <i>Tracker of Justice Department Requests for Voter Information</i> , Brennan Ctr. for Just. (Aug. 17, 2026)	3
Kyle Yoder & April Tan, <i>Election Officials & the Misuse of Public Records Requests</i> , Ctr. for Election Innovation & Rsch. (June 2024).....	9
Letter from Harmeet K. Dhillon, Assistant Att'y Gen., to Jocelyn Benson, Mich. Sec'y of State (July 7, 2026)	13
Letter from Michael Gates, Deputy Assistant Att'y Gen., to Michael Adams, Ky. Sec'y of State (July 17, 2025).....	7
Letter from Michael Gates, Deputy Assistant Att'y Gen., to Shenna Bellows, Me. Sec'y of State (July 24, 2025).....	7
Nick Corasaniti & Dustin Volz, <i>Markwayne Mullin reiterates Trump's false claims about voting security</i> ,	

N.Y. Times (July 17, 2026).....	13
Paul Gronke et al., Elections & Voting Info. Ctr., <i>Today’s Election Administration Landscape: Findings from the 2024 Elections & Voting Information Center LEO Survey</i> (2025)	8
Reply to Opp’ns to Mot. to Expedite at 8, <i>United States v. DeMarinis</i> , No. 26-1878 (4th Cir. July 29, 2026), Dkt. No. 24	12
Travis Cnty. Clerk, Travis Cnty. Tax Collector & Travis Cnty., Comment on Oct. 31	14
U.S. Election Assistance Comm’n, <i>Best Practices: Public Records Requests</i> (Mar. 2023)	8

STATEMENT OF INTEREST

Amici are local election officials and local governments representing 27 jurisdictions across the country, including the City of Minneapolis, and other jurisdictions that have received demands for voter rolls under Title III of the Civil Rights Act of 1960 (“CRA”) from the U.S. Department of Justice (“DOJ”) since 2025.¹ They sign this brief to support affirmance of the District Court’s dismissal. Local election officials are responsible for administering local, state, and federal elections in their respective jurisdictions. *Amici* are committed to holding free and fair elections for eligible voters in their states.

While state election officials possess the Statewide Voter Registration System (“SVRS”) at issue in this case, county auditors in Minnesota perform voter registration and list maintenance activities that support its accuracy, as local election officials do in other states. The ultimate disposition of this case will impact them. It will determine whether judicial review will be available for them when they receive elections-related records demands in the future, and they would be impacted by the consequences of the federal government obtaining the nonpublic state voter rolls and

¹ No party or party’s counsel authored this brief in whole or in part. No party or party’s counsel contributed money intended to fund preparation or submission of this brief. A list of all *amici* is attached as Appendix A; local election officials signing this brief do so in their individual capacities. Pursuant to Fed. R. App. P. 29(a)(2), all parties have consented to the filing of this brief.

enforcing its own list maintenance practices against state and local election officials. For example, the federal government has broadcasted several times that it is planning to file criminal charges against election officials in connection with their list maintenance duties—a sea change to the traditionally cooperative federal approach to list maintenance. Given the potential downstream consequences, *amici* offer their combined decades of election administration experience to ensure that the Court understands the facts of election administration, what constitutes proper list maintenance, and the purported basis of this lawsuit.

SUMMARY OF ARGUMENT

In 2025, the DOJ began to send letters to local and state governments across the country demanding unredacted copies of voter rolls with sensitive voter data.² The letters to the states changed over time, but, like the DOJ’s June 2025 letter to the Office of the Minnesota Secretary of State (“OSS”), generally asked questions about state compliance with federal voter list maintenance laws and demanded copies of the statewide voter registration lists, including nonpublic unique identifiers

² Ali Swenson & Gary Fields, *The Justice Department Seeks Voter and Election Information From at Least 19 States, AP Finds*, AP News (Aug. 3, 2025), <https://perma.cc/4UEC-B3VZ> (documenting initial wave of letters to states demanding voter rolls and noting that several counties received similar requests from the DOJ).

for voters.³ *See* App. 50; R. Doc. 66-1, at Ex. 1-1. Eventually in the nationwide demand letter campaign—and, in Minnesota’s case, in August of 2025—the DOJ began to cite the CRA to support its authority to demand the records. *See, e.g.*, App. 87; R. Doc. 66-2, at Ex. 2-1. In Minnesota, months after correspondence between the DOJ and the OSS about Minnesota’s list maintenance practices, the DOJ also sent the OSS a letter in April of 2026 noting that a noncitizen in Minnesota had been arrested for voting. App. 118; R. Doc. 180-1.

Most states refused to provide nonpublic versions of their voter registration lists. The DOJ has since sued thirty states and Washington, D.C. to compel disclosure. Every district court that has evaluated motions to compel and dismiss has dismissed the cases, and the only Circuit to decide an appeal, the Sixth Circuit, has affirmed the lower court’s dismissal.⁴

Here, too, the Court should affirm the dismissal below. Courts have the ability

³ *See* Kaylie Martinez-Ochoa, Eileen O’Connor & Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, Brennan Ctr. for Just. (Aug. 17, 2026), <https://perma.cc/3T7M-6SNS> (storing copies of the correspondence between states and the DOJ).

⁴ App. 121; R. Doc. 210, at 2 (“[F]ederal courts in Michigan, Oregon, California, Maryland, Colorado, Wisconsin, Maine, Arizona, Rhode Island, Massachusetts, New Mexico, Illinois, New Jersey, Kentucky, Virginia, New York, New Hampshire, Connecticut, Pennsylvania, West Virginia, the District of Columbia, and Nevada have dismissed Plaintiff’s claims demanding production of unredacted statewide voter registration lists.”); *United States v. Benson*, 179 F.4th 470, 474 (6th Cir. 2026) (affirming dismissal), *reh’g denied*, 2026 WL 2364306 (6th Cir. Aug. 14, 2026).

to evaluate records demands under the CRA, and it is important that they do so; otherwise, local and state election officials in Minnesota and across the country would have no recourse for burdensome demands that encompass sensitive information like voter records. And as other courts have determined, investigations into list maintenance are not a valid use of the Attorney General's record request authority under the CRA. Even if they were, the DOJ did not provide a sufficient basis to issue the demands. Minnesota had already provided the DOJ with detailed information about its list maintenance procedures, which meet or exceed federal requirements, and the DOJ identified no specific deficiency that would justify demanding the State's entire voter registration database.

ARGUMENT

I. COURTS PLAY A VITAL ROLE IN ASSESSING ELECTION-RELATED RECORDS REQUESTS, INCLUDING DEMANDS UNDER THE CIVIL RIGHTS ACT.

Local election officials regularly receive records requests from the public and the federal government, and while most requests are routine and lawful, *amici* and other local election officials rely on courts to evaluate less-routine requests and identify the limits of production obligations. Without limits to those obligations and if courts did not serve as arbiters of the validity of novel elections-related records requests, local election officials could be hindered in their ability to secure sensitive information like private voter data. They would also risk diverting time from their

day-to-day election administration responsibilities to respond to burdensome requests. Removing judicial review of CRA demands would worsen the problem.

If, as the DOJ contends, courts have very limited authority to review CRA demands, local election officials like *amici* appear to be next in line for the DOJ's sweeping requests and could be left without recourse if those demands were overbroad. Those demands have been paired with prosecution threats toward state and local election officials that can jeopardize election officials' ability to carry out their responsibilities and eligible voters' ability to exercise their right to vote.

A. The District Court properly exercised its authority to evaluate the DOJ's demand.

The District Court properly exercised its authority to evaluate the validity of the DOJ's demand for Minnesota's SVRS. App. 133–35; R. Doc. 210, at 14–16. The statute governing Attorney General requests under the CRA grants district courts the jurisdiction to compel records demanded by the Attorney General by “appropriate process.” 52 U.S.C. § 20705. Examining the term “appropriate process” in another statute, the Supreme Court found that because the statute did not “specify[] the procedure to be followed in invoking the court's jurisdiction, the Federal Rules of Civil Procedure apply.” *United States v. Powell*, 379 U.S. 48, 58 n.18 (1964). Because “[n]othing in the text of Title III [of the CRA] requires a special statutory proceeding or any abbreviated procedures,” *United States v. Weber*, 816 F. Supp. 3d 1168, 1182 (C.D. Cal. 2026), *Powell* controls here.

The DOJ argues that the CRA requires a “special statutory proceeding [that] limits how the Attorney General’s demand . . . may be challenged and reviewed,” Brief for the United States as Appellant (“U.S. Br.”) at 28, but the courts considering this argument in parallel cases have roundly rejected it. *See, e.g., United States v. Aguilar*, No. 25-cv-00728, 2026 WL 2364502, at *2–3 (D. Nev. Aug. 14, 2026) (collecting cases); *United States v. Koski*, No. 26-cv-42, 2026 WL 2032532, at *1 n.2 (E.D. Va. July 14, 2026) (same). The only circuit court to have issued a decision in these cases confirmed that *Powell* and related decisions “carve[] out a role for the courts in reviewing civil investigative demands like the government’s.” *Benson*, 179 F.4th at 483 n.2; *see also Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 229 (2020) (describing the strong presumption favoring judicial review of administrative agency action which can “only be overcome by clear and convincing evidence of congressional intent to preclude judicial review” (internal quotations omitted)).

B. Without judicial review, local election offices and their attorneys could be overwhelmed by records demands.

Amici and other local election officials are aware that they may continue to receive records demands from the federal government under the CRA. The demand letters sent to many states asked for contact information for all local election

officials,⁵ and the DOJ has demonstrated willingness to make unprecedented requests of local election officials in other circumstances recently, including demanding access to voting machines⁶ and for years of voter roll data.⁷

Local election officials have developed systems over time to respond to lawful requests but are not well-positioned to assess the legality of demands for records or respond to limitless or unprecedented requests. They have historically provided voter information to the public through record requests and understand the important balance of transparency and voter privacy that creates public confidence in the electoral process. However, *amici* and other local election officials in Minnesota and around the country have seen the number of records requests expand exponentially

⁵ See, e.g., Letter from Michael Gates, Deputy Assistant Att’y Gen., to Shenna Bellows, Me. Sec’y of State (July 24, 2025), <https://perma.cc/7KZ9-UT6G> (“Please provide a list of the election officials who are responsible for implementing [the state’s] general program of voter registration list maintenance from November 2022 through receipt of this letter, including those responsible officials not employed by your office (such as local election officials)...”); Letter from Michael Gates, Deputy Assistant Att’y Gen., to Michael Adams, Ky. Sec’y of State (July 17, 2025), <https://perma.cc/MY4N-FCDA> (same).

⁶ *Justice Department Requests Access to Dominion Voting Equipment Used in Missouri in 2020*, CNN (Sept. 4, 2025), <https://perma.cc/XYT3-ZDH2>.

⁷ Gilare Zada, *SF Officials Push Back as DOJ Seeks Data on Voters Removed Over Citizenship Rules*, KQED (July 31, 2025), <https://perma.cc/4JNW-E9CK>.

in recent years.⁸ National surveys of local election officials demonstrate both that the volume of records requests has increased and that the requests themselves have become more burdensome.⁹

This new flood of requests has taken considerable time and resources. Depending on the type of record requested, production can be a simple process, or it can be a complex process requiring multiple teams and diversion from other

⁸ See, e.g., Jackie Manning, *Minnesota Supreme Court Kills Lindell Recount: He Asked for Wrong Legal Remedy*, Tech Times (Aug. 30, 2026) <https://perma.cc/3YHQ-A7JS> (noting that gubernatorial primary candidate Mike Lindell said that he intends to file “public-records requests for election data from all 87 Minnesota counties to pursue an independent investigation” of the results); Deena Winter, *Election deniers and skeptics are still skeptical, even after many worked the polls*, Minn. Reformer (Jan. 3, 2023), <https://minnesotareformer.com/2023/01/03/election-deniers-and-skeptics-are-still-skeptical-even-after-many-worked-the-polls/> (“Activists filed a blizzard of data requests in Dakota County, many intended to verify the total number of voters using a list of registered voters and their voting histories. But those lists aren’t a reliable way to verify county vote totals; they’re used by campaigns to target voters.”); see also Jessica Huseman, *Conspiracy theorists swamp election officials demanding records that can’t prove fraud*, Votebeat (Sept. 12, 2022) <https://perma.cc/4ERJ-3TWD>.

⁹ See Paul Gronke et al., Elections & Voting Info. Ctr., *Today’s Election Administration Landscape: Findings from the 2024 Elections & Voting Information Center LEO Survey* at 20 (2025), <https://perma.cc/EH7G-LPLD> (noting results of survey that “Over 60% of [records] requests are unduly burdensome and impede the ability of [local election officials] to perform their duties”); U.S. Election Assistance Comm’n, *Best Practices: Public Records Requests* at 1 (Mar. 2023), <https://perma.cc/V5EH-G95E> (“Since the 2020 election cycle, election officials have reported an increase in public records requests, requiring time and resources added to their official duties of administering elections. Flooding election offices with public records requests may impact key service delivery during critical periods of an election cycle when staff time and resources are already stretched thin.”).

election administration work. Local election offices nationwide have had to devote days or weeks of staff time to accommodate requests, or even had to hire additional staff.¹⁰ For example, a request for records that do not already have a clear public inspection or production procedure in place can involve running the request by legal counsel to determine whether a response is required or would violate privacy laws; converting files from formats used in voting software to shareable or printable documents; monitoring public inspection sessions; devoting time to physical reproduction like printing and copying; applying redactions to protect voter privacy; responding to questions about what the documents mean; responding to concerns from voters whose information is part of the request, if the request becomes public; and responding to incidents arising from misinformation.

The last point is worth emphasizing: Election records can be complicated to interpret, and when records are misunderstood by people who have obtained them, they can create cascading problems for local election officials and voters. In an example relevant to list maintenance, since 2020, organizations claiming to be concerned with the accuracy of voter rolls have harnessed state voter eligibility

¹⁰ See Kyle Yoder & April Tan, *Election Officials & the Misuse of Public Records Requests*, Ctr. for Election Innovation & Rsch. (June 2024), <https://perma.cc/569H-7745>.

statutes to issue mass challenges against registered voters.¹¹ These organizations request public versions of voter rolls, compare them against various datasets, and use those comparisons to accuse certain voters of being ineligible to vote. Such erroneous accusations under state challenge statutes can result in hearings that take considerable resources from election offices while creating burdens for ordinary voters who have done nothing wrong, and generating unfounded concerns about the fairness of the elections systems.¹²

Judicial review of election-related records requests is the norm. Local and state election officials rely on both state and federal courts to understand their transparency obligations. Election officials rely on courts to interpret their statutory obligations and to balance these obligations against their duty to protect voter

¹¹ See Andrew Garber, *Mass Voter Challenges*, Brennan Ctr. for Just. (July 21, 2026), <https://perma.cc/9LCA-QC7F>.

¹² For example, groups in Pennsylvania became convinced that voter rolls were not properly maintained, and began sending datasets to local election officials. Local officials devoted time reviewing records, responding to emails, and holding meetings with organizations to try to explain that their list maintenance practices were proper and lawful. See Brett Sholtis, *'PA Fair Elections,' tied to powerful conservative groups, pushes to remove people from voter rolls*, WESA (Sept. 28, 2024), <https://perma.cc/2D9E-NMYM>. Misunderstanding the law and voter roll information, those groups returned with formal challenges to voters' eligibility just before the 2024 general election, diverting local election officials from their typical duties during the busiest weeks of election administration to hold hearings and forcing eligible voters to appear at those hearings to defend their eligibility. See Carter Walker, *Efforts to challenge Pennsylvania voters' mail ballot applications fizzle*, Spotlight PA (Nov. 8, 2024), <https://perma.cc/F4SE-ZWMQ>.

privacy. *See, e.g., Cilek v. Off. of Minn. Sec'y of State*, 941 N.W.2d 411, 417 (Minn. 2020) (determining that the OSS correctly denied a requester non-public personal voter data). They also rely on courts to protect against unduly burdensome requests. For example, in July of this year, the DOJ issued a grand jury subpoena for personal information about poll workers in Fulton County, Georgia. While the DOJ articulated a need for evidence in that case, the court weighed that need against the burden on the county and quashed the subpoena. *Fulton Cnty. Bd. of Registration & Elections v. United States*, No. 26-cv-02777, 2026 WL 1959461, at *7–12 (N.D. Ga. July 7, 2026). In that case, Judge Ray noted that a different outcome that did not adhere to limits on the government’s record-seeking authority would mean that “anyone in power (perhaps the next administration of a different party) could use the Grand Jury process similarly to subpoena personal information of citizens (perhaps that of their political opponents) with no legitimate law enforcement purpose.” *Id.* at *2.

The same is true here: if courts could not review Title III demands, any DOJ official could request sensitive information from voters for any reason. If local and state election officials did not have judicial review available to evaluate requests, they would have no backstop for overly burdensome requests or requests that could conflict with their obligations to protect voter privacy.

C. These requests are paired with an unprecedented threat of prosecution.

Beyond the potential administrative challenges of evaluating and responding to the DOJ's novel election records requests, state and local election officials are also burdened by threats of prosecution. Over the past several months, the federal government has signaled that it is following the White House directive to “prioritize the investigation and, as appropriate, the prosecution of State and local officials or any others involved in the administration of Federal elections who issue Federal ballots to individuals not eligible to vote in a Federal election”¹³ This focus on criminal prosecution places state and local election officials’ list maintenance decisions under an unprecedented threat of federal prosecution.

The federal government has been broadcasting these threats for months. In a parallel case in the Fourth Circuit, the DOJ asserted that if it were successful in obtaining the statewide voter registration list through a CRA demand, states might then “elect voluntary compliance to avoid the criminal sanctions that may be incurred by state officials that knowingly conspire with noncitizens to permit them to vote . . . or knowingly tabulate fictitious ballots.”¹⁴ The suggested premise—that

¹³ Ensuring Citizenship Verification and Integrity in Federal Elections § 2(b), Exec. Order No. 14399, 91 Fed. Reg. 17125 (Mar. 31, 2026), <https://perma.cc/ZNV6-ZQ3R>.

¹⁴ Reply to Opp’ns to Mot. to Expedite at 8, *United States v. DeMarinis*, No. 26-1878 (4th Cir. July 29, 2026), Dkt. No. 24.

election officials have been knowingly conspiring with noncitizens to allow them to vote and will only stop if the DOJ has access to the state voter registration list—is implausible to say the least. In July of this year, the DOJ’s Civil Rights Division sent state election officials from all 50 states a letter repeating that state and local election officials could be criminally charged in connection with noncitizen voting,¹⁵ and Secretary of Homeland Security Markwayne Mullin explained that if the federal government gave state and local election officials “information they need to secure their elections, and they chose not to,” then DHS may pursue criminal charges.¹⁶

The federal government’s statements suggest that it intends to scour state voter rolls to compile a list of voters that it claims are ineligible, and then attempt to prosecute election officials if they do not treat those lists of ineligible voters as definitive—even though the administration’s lists of alleged ineligible voters since

¹⁵ Jessica Huseman, *Department of Justice Warns Election Officials They Could be Criminally Charged Over Noncitizen Voters*, Votebeat (July 7, 2026), <https://perma.cc/V9YE-QZQR>; see, e.g., Letter from Harmeet K. Dhillon, Assistant Att’y Gen., to Jocelyn Benson, Mich. Sec’y of State (July 7, 2026), <https://perma.cc/5AXT-TH3Z> (repeating the assertion that “any election officer, including the chief election officer of the state, who knowingly retains noncitizens on the state’s SVRL or facilitates noncitizens in receiving and casting ballots could be subject to criminal liability”).

¹⁶ Nick Corasaniti & Dustin Volz, *Markwayne Mullin reiterates Trump’s false claims about voting security*, N.Y. Times (July 17, 2026), <https://perma.cc/45H7-R5Y9>.

2025 have been demonstrably flawed.¹⁷ In addition to the fear of prosecution this plan could cause local election officials, it would also put citizens' right to vote in jeopardy. For example, Texas willingly entered into an agreement with the federal government in 2025 and ran its voter rolls through the Systematic Alien Verification for Entitlements (SAVE) database with the intention of identifying noncitizens.¹⁸ The state gave counties a list of voters flagged by the SAVE system and instructed them to follow a process by which voters would be removed from rolls in thirty days if they did not provide proof of citizenship.¹⁹ Travis County, Texas researched its list and found "strong indicators" that almost 70 percent of the 97 flagged Travis County voters had already provided proof of citizenship to the state at an earlier point, and pushed back on the lists and process in correspondence with the Texas

¹⁷ Alexandra Berzon & Nick Corasaniti, *Initial Review Finds No Widespread Illegal Voting by Migrants, Puncturing a Trump Claim*, N.Y. Times (Jan. 14, 2026), <https://perma.cc/GM6M-WPPA>; Jude Joffe-Block & Miles Parks, *DHS acknowledges the noncitizen numbers it touted on voter rolls were inflated*, NPR (Aug. 25, 2026), <https://perma.cc/AA8Q-YEGW> (after announcing that it had found upwards of 16,000 noncitizens on Nevada's voter rolls, DHS told Nevada officials at a meeting that it was only "confident" about 185 of them).

¹⁸ Travis Cnty. Clerk, Travis Cnty. Tax Collector & Travis Cnty., Comment on Oct. 31, 2025 DHS Systems of Records Notice at 5–6 (Dec. 1, 2025), <https://perma.cc/J7YP-LKA6>; Jen Fifield & Zach Despart, *A federal tool to check voter citizenship keeps making mistakes. It led to confusion in Texas.*, Tex. Tribune (Feb. 13, 2026), <https://perma.cc/JNK9-V6YN>.

¹⁹ See Travis County Clerk Comment, *supra* note 18, at 8.

Secretary of State.²⁰ If the list had been paired with a threat that failure to remove any ineligible voter on that list could result in criminal prosecution, the election officials in that case would have faced significant pressure not to speak up on behalf of the eligible voters erroneously on the list.

Threats of prosecution against local election officials impede their ability to carry out proper voter list maintenance. Removing an individual from the voter rolls is a duty that local election officials do not undertake lightly. They act only when presented with clear and reliable evidence establishing that removal is warranted under applicable law. Fear that the federal government will evaluate their decisions under unprecedented and unclear standards, and that these good faith determinations may subject them to prosecution, should never have to enter into their analysis.

An opinion from this or any court that opens the door to unreviewable CRA demands could result in an unsustainable burden on local election officials. In addition to the time it takes to respond to requests, drawing local election officials away from their day-to-day responsibilities, the DOJ's requests are tethered to increasingly frequent prosecution threats associated with list maintenance duties. Courts must be available to evaluate the requests and interpose safeguards to prevent the harmful impact unlawful requests could have on local election administration.

²⁰ *See id.* at 7–8.

II. THE DOJ DID NOT PROVIDE A SUFFICIENT BASIS OR PURPOSE FOR ITS DEMAND.

The DOJ's assertions that it stated an adequate basis and purpose for its CRA demand are wrong. U.S. Br. 38–49. A demand under the CRA must “contain a statement of the basis and the purpose therefor.” 52 U.S.C. § 20703. Neither the questions the DOJ offers as its primary basis for its demand nor the evidence it seeks in the SVRS have any bearing on whether Minnesota state and local election officials meet federal and state list maintenance obligations. They do meet those obligations, through a robust system that the OSS articulated to the DOJ in advance of this lawsuit.

A. Efforts of state and local election officials in Minnesota meet state and federal list maintenance requirements.

Demands for records under the CRA must be accompanied by a statement of the purpose of the demand. 52 U.S.C. § 20703. Most recently, the DOJ now asserts that its purpose is “protecting voting rights.” U.S. Br. 45. The DOJ did not raise this argument below, where it contended “that the purpose of the request was to enforce the list maintenance provisions of [the Help America Vote Act, or] HAVA.” R. Doc. 102, at 5.

List maintenance in Minnesota is governed by state law and HAVA. Because Minnesota is exempt from the National Voter Registration Act (“NVRA”), *Pub. Int.*

Legal Found., Inc. v. Simon, No. 25-1703, 2026 WL 2545322, at *1 (8th Cir. Aug. 28, 2026), it is not subject to NVRA list maintenance obligations and instead must “remove the names of ineligible voters from the computerized list *in accordance with State law*,” 52 U.S.C. § 21083(a)(2)(A)(iii) (emphasis added).²¹ In addition, HAVA requires “[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.” 52 U.S.C. § 21083(a)(4). Minnesota’s local election officials go well beyond HAVA’s “reasonable effort” standard, using a comprehensive, ongoing system of data checks and verification procedures to maintain the accuracy of the voter rolls.

As a backdrop, it is important to note that HAVA is an election administration statute intended to assist, not supplant, local authority over elections, including list maintenance. It was enacted in the wake of the 2000 general election, which “highlighted the need for improvements” in election administration. H.R. Rep. No. 107-329, at 31 (2001). The statute made those improvements by, among other things, providing funding to replace punch cards, establishing the Election Assistance Commission, and establishing “minimum election administration standards.” *Minn.*

²¹ Congress gave states subject to the NVRA explicit instructions about how to conduct list maintenance, including, for example, the creation of a safe harbor process for removals of voters who have moved. *See* 52 U.S.C. § 20507(c)(1). Because Minnesota allows same day voter registration and is therefore exempted from the NVRA, it is exempted from that statute’s list maintenance parameters. 52 U.S.C. § 20503(b).

Voters All. v. City of Minneapolis, No. 20-cv-2049, 2020 WL 6119937, at *5 (D. Minn. Oct. 16, 2020) (quoting *Crowley v. Nevada ex rel. Nev. Sec’y of State*, 678 F.3d 730, 734 (9th Cir. 2012)). The legislative history makes it clear that HAVA was not intended to give the federal government control over election administration, but instead to assist local election administrators:

Historically, elections in this country have been administered at the state and local level. . . . The dispersal of responsibility for election administration has made it impossible for a single centrally controlled authority to dictate how elections will be run, and thereby be able to control the outcome. This leaves the power and responsibility for running elections where it should be, in the hands of the citizens of this country. . . . [T]he federal government can play a valuable roll [sic] by assisting state and local government in modernizing their election systems. [HAVA] will, for the first time, give the state and local governments some financial assistance, from the federal government, to improve their election infrastructure.

H.R. Rep. 107-329, 31-32. The purpose that the DOJ claimed in its August letter—investigation of state list maintenance—therefore runs up against the intent of the statute, particularly when paired with the prosecution threats the federal government has issued in association with its list maintenance priorities. *See supra* Section I.C.

To begin, multiple district courts evaluating these cases have determined that list maintenance investigations are not a proper purpose for a demand under the CRA. At least two courts have found that such investigations “must relate to a purpose of investigating violations of individuals’ voting rights.” *United States v. Amore*, 831 F. Supp. 3d 149, 157–58 (D.R.I. 2026) (quoting *United States v. Oregon*,

828 F. Supp. 3d 1092, 1105 (D. Or. 2026)); *see also United States v. Bellows*, 834 F. Supp. 3d 113, 124–25 (D. Me. 2026) (reasoning that “the NVRA and HAVA create a comprehensive scheme for the creation and upkeep of states’ computerized SVRLs, and for the enforcement of the list maintenance requirements” so “whatever investigatory purposes may support a Title III records demand, voter list maintenance is not among them.”).

But even if the CRA did create authority to investigate whether Minnesota meets its list maintenance requirements, all that HAVA requires is a “reasonable effort” to remove ineligible voters. 52 U.S.C. § 21083(a)(4). That is a question of sufficient process, and Minnesota’s list maintenance program well exceeds HAVA’s reasonableness requirement. County auditors are the chief registrars of voters in their jurisdictions. Minn. Stat. §§ 201.021–.022. They, along with state election officials, carry out numerous, regular checks to ensure that the SVRS is up-to-date. The DOJ is aware of these processes. The OSS described those programs in detail in response to the DOJ’s initial demand for Minnesota’s voter registration list. *See App. 57; R. Doc. 66-1, at Ex. 1-8.*

HAVA requires that states register voters with a driver’s license number or the last four digits of their social security number, or the state is to assign a number to the voter for registration purposes. 52 U.S.C. § 21083(a)(5)(A). The SVRS contains the registration information of each person who has registered to vote in

Minnesota, Minn. Stat. § 201.021, which includes, at minimum, name, birth date, address, signature, and driver's license or state identification card number. Minn. Stat. § 201.071, subdiv. 3. It automatically generates a unique identifying number for each person when their data is entered into the system, which is used when applicants certify that they do not have a driver's license. *See* App. 55; R. Doc. 66-1, at Ex. 1-6. Thus, Minnesota's systems satisfy HAVA's data collection requirement.

HAVA requires states to enter into information-sharing agreements with the state motor vehicle authority and the Social Security Administration to verify voter registration data. 52 U.S.C. § 21083(a)(5)(B). The OSS verifies voter applicant information by comparing it to information shared by the Minnesota Department of Public Safety's Driver and Vehicle services if the applicant provided a driver's license or state ID card, or information shared by the Social Security Administration if the applicant provided a social security number. *See* Minn. Stat. § 201.121. County auditors review any registrations that the OSS cannot verify with certainty, including by attempting to obtain needed information from the registrant. Minn. R. 8200.9310, Subp. 2(C). If the auditor cannot verify information for a registration, they mark the application incomplete and "challenge" the voter's status. Minn. Stat. § 201.121, subdiv. 1(f). The applicant can clear the challenge twenty-one or more days before

the next election, or at the polling place on election day. *Id.*²² In addition to verifying the provided identification number, the county auditor verifies the applicant's address by sending them a non-forwardable mailing. Minn. Stat. § 201.121, subdiv. 2. This comes with its own challenge process, which can result in the county auditor moving the applicant to “inactive” status. *See* App. 56; R. Doc. 66-1, at Ex. 1-7. Thus, county auditors and the OSS not only meet HAVA's information-sharing requirements, but also take additional verification steps, and have challenge procedures in place to ensure that new voters are registered properly.

The letter that OSS sent also provided DOJ extensive details on additional statutory steps that the state and local election officials take to maintain lists, codified at Minn. Stat. §§ 201.13, .145, which include reviewing and acting on monthly reports from the Minnesota Department of Corrections concerning felony statuses of individuals; monthly reports from the Minnesota Department of Health concerning individuals who have died in the past month; monthly reports listing all those who appeared on the Social Security Death Index since the last report; daily reports from the Minnesota State Court Administrator concerning guardianship and

²² For first-time voters in federal elections who are registering by mail and whose applications are incomplete, the auditor must notify the applicant that their application is incomplete. Minn. Stat. § 201.061, subdiv. 1a. The applicant must present a document authorized for election day registration to their county auditor before election day; when registering to vote in person on election day; or following the election day registration procedures for absentee voters. *See id.*, subdivs. 1a, 3.

competency; and monthly reports from the Minnesota Department of Public Safety listing individuals who have temporary lawful status in the United States. App. 57–59; R. Doc. 66-1, at Ex. 1-8 to 1-10. For example, the OSS reviews the list of individuals with temporary lawful status and reports to county auditors if any of those individuals are registered to vote; the county auditor then challenges that voter’s status and refers the case to the county attorney. Minn. Stat. § 201.145, subdiv. 5. These regular, cross-agency checks demonstrate that Minnesota’s state and local election officials are not merely meeting their HAVA and state-law list maintenance obligations, but are employing a comprehensive system that exceeds HAVA’s minimum “reasonable effort” standard.

Even if the DOJ’s purpose of list maintenance evaluation was sufficient for a CRA demand—and it is not—the records it seeks would not provide the information necessary to evaluate whether Minnesota’s list maintenance program satisfies HAVA. The SVRS reflects the voter registration maintained by the State, but it does not by itself show the verification procedures or cross-agency checks that county auditors and the OSS use to maintain the accuracy of that information. HAVA requires “a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters.” 52 U.S.C. § 21083(a)(4). The extensive procedures carried out by the OSS and county auditors exceed that standard, and the DOJ cannot determine whether Minnesota meets that standard simply by examining

the resulting voter registration database.

B. The DOJ did not provide a sufficient basis.

The DOJ claims that it stated a factual basis to demand the records by “pos[ing] numerous questions to Secretary Simon about Minnesota’s list maintenance under HAVA,” which “[u]nder any reasonable interpretation” would point to the purported factual basis “that Minnesota’s list maintenance program may violate HAVA.” U.S. Br. 41. But the OSS answered those questions with detailed descriptions of procedures that show more than reasonable list maintenance procedures, *see* App. 57–59; R. Doc. 66-1 at Ex. 1-8 to 1-10, and the DOJ did not ask any questions about those procedures.

The DOJ also pointed to a single instance of a Minnesota resident being charged with voting despite lacking citizenship. U.S. Br. 42 (citing App. 118). This example is not sufficient to suspect that Minnesota’s list maintenance efforts are unreasonable. As explained above, *see supra* Section II.A, state and local officials in Minnesota check lists of temporary lawful residents and then both challenge the status of any voters who appear to be on those lists and also refer them to county attorneys. Minn. Stat. § 201.145. Criminal cases should be seen as the result of list maintenance, then—not the reason that a state’s entire list maintenance process is suspect.

Some *amici* are from other states where the DOJ has issued, and litigated, its

CRA demands, and that litigation suggests that the DOJ did not conduct investigation sufficient to identify a problem with any state’s list maintenance practices. In a hearing about the parallel case in Rhode Island, the DOJ “proposed that its unprecedented demands for unredacted voting rolls are the result of its ‘trust but verify’ approach to the states’ list maintenance efforts.” *Amore*, 831 F. Supp. 3d at 154. Such a characterization, along with the tactic of sending requests to most states, suggests that the DOJ did not have much reason to suspect that any particular state’s list maintenance efforts were unreasonable. The letter to Minnesota, for example, *see* App. 50–51; R. Doc. 66-1, at Ex. 1-1 to 1-2, requested information on processes that are largely codified in Minnesota state law, and so are readily available. *See* Minn. Stat. ch. 201; Minn. R. ch. 8200. At least two district courts in other states have characterized the demand letters as a “fishing expedition.” *Amore*, 831 F. Supp. 3d at 158; *Weber*, 816 F. Supp. 3d at 1191).

The DOJ’s argument that it needs access to the SVRS in order to investigate whether “reasonable list maintenance efforts have been practiced,” U.S. Br. 26, does not withstand scrutiny. As the court observed in *Fulton County*, “[s]urely, the DOJ could articulate a ‘need’ for almost any evidence.” 2026 WL 1959461, at *8. A generalized assertion of investigative need cannot, standing alone, establish the sufficient basis required by the CRA—particularly where the DOJ has identified no specific deficiency in Minnesota’s list maintenance practices. And the DOJ has less

intrusive means available to investigate any concerns it had: it could have followed up on the detailed information the OSS provided about Minnesota's list maintenance procedures or pursued other targeted investigative steps before demanding the State's entire voter registration database.

CONCLUSION

The District Court correctly concluded that it had jurisdiction to determine whether the DOJ's demand was issued pursuant to a proper purpose and that the DOJ's purpose of list maintenance enforcement cannot support a demand under the CRA. For all of the foregoing reasons, the judgment of the District Court should be affirmed.

Respectfully submitted,

/s/ Christine Bass

Christine Bass
Public Rights Project
490 43rd Street, #115
Oakland, CA 94609
(510) 738-6788
christine.bass@publicrightsproject.org

Counsel for Amici Curiae

APPENDIX A – List of *Amici Curiae*

LOCAL GOVERNMENTS

City of Minneapolis, Minnesota

City of Ann Arbor, Michigan

City of Boston, Massachusetts

County of King, Washington

County of Los Angeles, California

Milwaukee County, Wisconsin

City of New Haven, Connecticut

City of Rochester, New York

County of San Diego, California

City of San Diego, California

LOCAL GOVERNMENT OFFICIALS

Lisa Brown

Clerk/Register of Deeds, Oakland County, Michigan

Bill Burgess

Clerk, Marion County, Oregon

Juan Cervantes

Recorder & Registrar of Voters, County of Humboldt, California

Rich Coglianese

Board of Elections Member, Union County, Ohio

Lisa Deeley
Commissioner, City and County of Philadelphia, Pennsylvania

Jilline Dobratz
Clerk, City of West Bend, Wisconsin

Commissioner Justin Douglas
Commissioner, County of Dauphin County, Pennsylvania

Anjela Hamm
Clerk, Farmington Township, Wisconsin

Nicole Hunt
Clerk, Pine Grove Township, Wisconsin

Kristina Irwin
Clerk/Treasurer, Village of Endeavor, Wisconsin

Lisa Lawitzke
Clerk, Bellevue Township, Michigan

Nicholas Lima
Registrar/Director of Elections, City of Cranston, Rhode Island

Dean C. Logan
Registrar-Recorder/County Clerk, County of Los Angeles, California

Robin Major
Elections Administrator, County of Monmouth, New Jersey

Neil Makhija
Commissioner and Board of Elections Chair, Montgomery County, Pennsylvania

Chris Walker
Clerk, Jackson County, Oregon

CERTIFICATE OF COMPLIANCE

I hereby certify that this document complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) because it contains 6,104 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionately spaced typeface using Microsoft Word for Office 365 and Times New Roman 14-point font.

Pursuant to 8th Cir. R. 25A(h)(2), I certify that the foregoing document has been scanned for viruses and is virus free.

/s/ Christine Bass
Christine Bass

Dated: September 11, 2026

CERTIFICATE OF COMPLIANCE

I certify that on September 11, 2026, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the appellate CM/ECF system. I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Christine Bass
Christine Bass

Dated: September 11, 2026