

1 D. Andrew Gaona (028414)
Austin C. Yost (034602)
2 **COPPERSMITH BROCKELMAN PLC**
2800 North Central Avenue, Suite 1900
3 Phoenix, Arizona 85004
4 T: (602) 381-5486
agaona@cblawyers.com
5 ayost@cblawyers.com

6 Abha Khanna*
7 Makeba Rutahindurwa*
ELIAS LAW GROUP LLP
8 1700 Seventh Avenue, Suite 2100
Seattle, Washington 98101
9 T: (206) 656-0177
akhanna@elias.law
10 mrutahindurwa@elias.law

11 Marilyn Gabriela Robb*
12 Elena A. Rodriguez Armenta*
ELIAS LAW GROUP LLP
13 250 Massachusetts Ave NW, Suite 400
Washington, D.C. 20001
14 T: (202) 968-4330
mrobb@elias.law
15 erodriguezarmenta@elias.law

16 *Attorneys for Intervenor-Defendants*
17 *Arizona Alliance for Retired Americans*
and Voto Latino
18 **Pro Hac Vice Application Pending*

**ARIZONA SUPERIOR COURT
YAVAPAI COUNTY**

20 ARIZONA FREE ENTERPRISE CLUB, et al.,) No. S1300CV202300872

21 Plaintiffs,)

22 v.)

23 ADRIAN FONTES, in his official capacity as)
24 the Secretary of State of Arizona,)

25 Defendant.)

26 ARIZONA ALLIANCE OF RETIRED)
27 AMERICANS and VOTO LATINO,)

28 Intervenor-Defendants.)

(Assigned to the Hon. John Napper)

**INTERVENOR-DEFENDANTS'
REPLY IN SUPPORT OF
COMBINED MOTION TO
DISMISS FOR LACK OF
STANDING AND MOTION FOR
SUMMARY JUDGMENT**

1 INTRODUCTION

2 Plaintiffs concede they have suffered no injury from the Secretary’s regulation of
3 unstaffed drop boxes, insisting instead that this Court’s mandamus jurisdiction is broad
4 enough to entertain their generalized grievance with this long-established voting method.
5 But because Plaintiffs seeks to *prohibit* (not require) the Secretary’s performance of a
6 *discretionary* (not mandatory) duty, Plaintiffs’ claims do not lie in mandamus. As a result,
7 their failure to even attempt to establish injury is fatal to their claims, and their complaint
8 should be dismissed for lack of standing.

9 Plaintiffs’ arguments on the merits fare no better. The Legislature explicitly
10 delegated to the Secretary the authority to establish procedures for early voting and ballot
11 collection, and the Secretary has lawfully exercised his discretion to allow for ballot
12 collection via unstaffed drop boxes. Despite Plaintiffs’ best efforts to fabricate a conflict
13 between Arizona election law and the existence of unstaffed drop boxes, they are entirely
14 consistent with each other.

15 Ultimately, Plaintiffs have a policy dispute, not a cognizable legal claim. And
16 because the relief they seek would impose severe harm on voters across the State—
17 including from underserved minority groups—both the law and the equities foreclose
18 Plaintiffs’ effort to use the judiciary to mold the law to their preference. This Court should
19 dismiss Plaintiffs’ complaint for lack of standing or grant Intervenor-Defendants summary
20 judgment.

21 ARGUMENT

22 **I. Plaintiffs’ complaint should be dismissed because Plaintiffs lack standing.**

23 Plaintiffs do not even attempt to allege that the existence of drop boxes has caused
24 any “particularized injury to themselves,” *Bennett v. Brownlow*, 211 Ariz. 193, 196 (2005)
25 (remanding with instructions to dismiss), instead putting all their effort toward arguing that
26 the relaxed standing requirement for mandamus actions applies. But as Intervenor
27 explained, *see* Intervenor’s Combined Mot. to Dismiss & Mot. for Summ. J. (“Intervenor’s
28 Mot.”) at 5–7, Plaintiffs cannot shoehorn their broad-based policy dispute into the

1 “extraordinary remedy” of mandamus. *Sears v. Hull*, 192 Ariz. 65, 68 (1998).

2 Plaintiffs’ contention that “[t]his case is no different” from the mandamus action in
3 *Arizona Public Integrity Alliance v. Fontes*, 250 Ariz. 58 (2020), wholly misreads that
4 precedent. Pls.’ Resp. to Def.’s Mot. for Summ. J. & Intervenors’ Combined Mot. for
5 Summ. J. (“Resp.”) at 3. *Fontes* did not broadly authorize mandamus actions anytime an
6 Arizona citizen seeks to “require[] the Secretary . . . to comply[] with Arizona election
7 laws,” *Id.* at 6. Rather, *Fontes* made clear that mandamus actions are limited to instances in
8 which public officials are *required* by law to undertake *specific, nondiscretionary* duties. In
9 that case, the Secretary promulgated specific rules outlining the precise overvote
10 instructions to be printed on mail-in ballots, yet a county recorder chose to print different
11 instructions. *Fontes*, 250 Ariz. at 61, 63. The Court first noted that while the Secretary
12 retained broad “authority to promulgate rules and instructions for early voting” “expressly
13 delegated” by the legislature, *id.* at 62, the recorder was “not empowered to promulgate
14 rules regarding instructions for early voting . . . [or]to change or supplant the EPM’s
15 prescribed instructions.” *Id.* at 63. The Court further noted that the EPM prescribed specific
16 instructions to be printed on mail-in ballots: “[T]he Recorder ‘*must* supply printed
17 instructions that . . . [i]nform voters that no votes will be counted for a particular office if
18 they overvote,’ and that voters ‘should contact the County Recorder to request a new ballot
19 in the event of an overvote.’” *Id.* (citing EPM). As a result, the Court held that “the Recorder
20 has a non-discretionary duty to provide the Overvote Instruction authorized by the”
21 Secretary. *Id.* at 61.

22 Here, by contrast, Plaintiffs do not and cannot point to any specific, nondiscretionary
23 duty that the Secretary is required to perform. Unlike the recorder in *Fontes*, who had “no
24 authority to prescribe mail-in ballot instructions,” *id.* at 64, the Secretary is expressly
25 delegated the discretion to “promulgate rules and instructions for early voting,” *id.* at 62.
26 And unlike the specific duty at issue in *Fontes*, which mandated the precise overvote
27 instructions the recorder was to print on mail-in ballots, Plaintiffs here challenge a statute
28 that broadly *empowers* the Secretary to “prescribe rules . . . for early voting and . . .

1 collecting, counting, tabulating and storing ballots.” A.R.S. § 16-452(A). Indeed, while
2 Plaintiffs admit that “the statute is utterly silent on these drop boxes[,]” Resp. at 9, they fail
3 to explain how that silence gives rise to “a duty specifically imposed by law,” *Sears*, 192
4 Ariz. 69; see *Graham v. Moore*, 56 Ariz. 106, 111 (1940) (denying writ of mandamus
5 because “the statute does not point out any particular thing that [the official] must do”).

6 Plaintiffs also suggest that *Fontes* implicitly did away with the well-established rule
7 that mandamus actions may not lie to “restrain a public official from doing an act,” *Sears*,
8 192 Ariz. at 68 (quoting *Smoker v. Bolin*, 85 Ariz. 171, 173 (1958)), contending that “*Fontes*
9 did exactly that in the mandamus action there.” Resp. at 4. This once again mischaracterizes
10 *Fontes*. The Supreme Court in *Fontes* found that the county recorder needed to perform his
11 “non-discretionary duty to provide the Overvote Instruction authorized by the [EPM].” 250
12 Ariz. at 61. While Plaintiffs emphasize that the recorder was enjoined from including the
13 wrong instructions on mail-in ballots, Resp. at 4, this simply reflects the practical
14 consequence that compelling the recorder to print the proper instructions necessarily
15 required striking the conflicting, improper instructions.¹

16 In any event, as Plaintiffs themselves acknowledge, Resp. at 4, what matters in
17 assessing mandamus jurisdiction is not how Plaintiffs’ requested relief is phrased, but what
18 they are practically seeking. In *Sears*, for instance, the plaintiffs attempted to trigger
19 mandamus relief by arguing that the relevant law, “as interpreted by the [plaintiffs,]
20 *require[ed]* the Governor *to refuse* to enter” into a specific compact. 192 Ariz. at 69. The
21 Court declined to bend the mandamus rules based on semantics where the practical relief
22 sought by the plaintiffs was to “prohibit[] the Governor from entering any gaming compact
23 that permit[s] slot machine or keno gambling,” *id.* at 67. Here, too, while Plaintiffs attempt
24 to wordsmith their claim as seeking to *require* the Secretary to *disallow* drop boxes, see
25 Resp. at 4 (arguing that Plaintiffs request something “similar” to “a prohibitory injunction
26 *halting noncompliance* with Arizona law”), the practical relief they seek is to *prohibit* the

27
28 ¹ Although the plaintiffs’ delay in bringing suit in *Fontes* made it impossible for the recorder
to “order new instructions” for early ballots, the recorder was still “able to remove” the
challenged instruction and mail the early ballots on time. *Id.* at 65.

1 Secretary from implementing unstaffed drop boxes. *See* Compl. ¶¶ 76, 78 (seeking “[a]n
2 order invalidating the portion of the EPM authorizing unstaffed drop-boxes and enjoining
3 their use”).

4 At bottom, Plaintiffs ask this Court to transform mandamus from an “extraordinary”
5 exception to traditional jurisdictional principles to a broad forum for generalized grievances
6 anytime “virtually any citizen” seeks to “challenge any action of any public officer” by
7 “claiming that the officer has failed to uphold or fulfill state or federal law, as interpreted
8 by the dissatisfied plaintiff.” *Sears*, 192 Ariz. at 68–69. But the Supreme Court has rejected
9 that position as flatly “inconsistent” with the mandamus statute, “which limits a cause of
10 action to beneficially interested parties who seek to compel a public officer to perform ‘an
11 act which the law specially imposes as a duty resulting from an office.’” *Id.* at 69 (quoting
12 A.R.S. § 12–2021). Because this is not an action in mandamus, Plaintiffs cannot rely on a
13 “beneficial interest” to confer standing, and their Complaint should be dismissed.

14 **II. The Secretary’s procedures allowing for unstaffed drop boxes are entirely**
15 **consistent with Arizona law.**

16 Even if this Court reaches the merits, Intervenors are entitled to summary judgment
17 because Plaintiffs’ claims fail as a matter of law. Plaintiffs do not dispute that the
18 Legislature “expressly delegated to the Secretary the authority to promulgate rules and
19 instructions for early voting,” Intervenors’ Mot. at 8 (quoting *Fontes*, 250 Ariz. at 62).
20 Instead, they suggest that absent an express authorization for unstaffed drop boxes, the
21 Secretary has exceeded his authority under A.R.S. § 16-452. Resp. at 10–11. Plaintiffs’
22 cramped interpretation of the law has no basis in statute or precedent.

23 While Plaintiffs urge the Secretary to simply “implement the specific requirements
24 of Arizona election statutes,” Resp. at 12, the Legislature did not impose any specific
25 requirements for ballot collection. Instead, the Secretary is tasked by law to determine
26 which procedures “achieve and maintain the maximum degree of correctness, impartiality,
27 uniformity and efficiency” and to prescribe rules establishing those procedures. A.R.S.
28 § 16-452(A). Contrary to Plaintiffs’ claims, Resp. at 10, this routine delegation of authority

1 does not run afoul of Arizona’s non-delegation and constitutional avoidance doctrines.
2 “[T]he Legislature may delegate ‘the job of formulating guidelines to an agency that is
3 likely better equipped to undertake the task.’” *Cook v. State*, 230 Ariz. 185, 187 (App. 2012)
4 (quoting *Griffith Energy, L.L.C. v. Ariz. Dep’t of Revenue*, 210 Ariz. 132, 137 (App. 2005)
5 (explaining that the Legislature “cannot delegate the authority to enact laws,” but it can
6 delegate the authority “to fill in the details of legislation already enacted”). Here, the
7 Legislature has determined that the Secretary is “better equipped” to “fill in the details” of
8 the law governing early voting procedures, including ballot collection. *Id.*; *Griffith Energy,*
9 *L.L.C.*, 210 Ariz. at 137; *see also* A.R.S. § 16-452(A). Accordingly, while the Legislature
10 has decreed that early ballots shall be “delivered or mailed to the county recorder or other
11 officer in charge of elections . . . or deposited by the voter or the voter’s agent at any polling
12 place in the county,” it has not enacted any law detailing the specific processes by which
13 such ballots must be delivered, mailed, or deposited, and has explicitly delegated to the
14 Secretary the authority to fill in these gaps. A.R.S. §§ 16-548(A), 16-452(A).

15 Indeed, delegation is particularly appropriate here because the EPM contains
16 multiple hundreds of pages of detailed procedures, developed in consultations with various
17 elections officials, stakeholders, and the public, and is also approved by the Attorney
18 General and Governor. *See* Statement of Facts in Supp. of Intervenor-Def.’ Mot. for
19 Summ. J. (“SOF”) ¶ 9 (containing hyperlink to Arizona’s 2019 EPM, which is 544 pages);
20 Ex. A at 2 (stating that the Secretary’s office worked with “County Recorders, Elections
21 Directors, and their staff, and carefully considered feedback from other stakeholders and
22 the public”). Because it would be “impracticable for the Legislature to supply” this level of
23 detail, “[i]t is both reasonable and constitutionally acceptable for the Legislature to
24 delegate” to the Secretary the authority to develop and regulate voting procedures. *Cook*,
25 230 Ariz. at 188 (finding delegation proper where agency’s guidelines included 35 pages of
26 detailed procedures involving coordination with agency personnel).

27 Plaintiffs contend that the delegation of authority to develop procedures for ballot
28 collection would translate to a grant of “plenary power to reshape Arizona’s voting process

1 in whatever way [the Secretary] likes” and “discretion to ignore Arizona law.” Resp. at 9.
2 Not so. No party disputes the rule articulated in *Leach v. Hobbs* that the Secretary must
3 exercise his discretion consistent with Arizona law. 250 Ariz. 572, 576 (2021); Intervenors’
4 Mot. at 8–9.² But contrary to Plaintiffs’ suggestion, *Leach* does not support the proposition
5 that statutes must provide “express authorization” for every minutiae of the election process.
6 Resp. at 11. Instead, *Leach* rejected an interpretation of an EPM provision that would have
7 directly conflicted with express statutory requirements. 250 Ariz. at 576 (finding that EPM
8 provision allowing registered petition circulators to “de-register” would “evade [the
9 statutory] requirement that a circulator answer a properly served subpoena”); *see also*
10 *Arizona All. for Retired Americans, Inc. v. Crosby*, 537 P.3d 818, 823 (Ariz. Ct. App. 2023)
11 (voiding EPM regulation granting counties discretion to determine how many ballots to
12 hand audit upon finding that it “directly conflicts” with statute that “establishes with
13 precision the number of early ballots that must be hand audited in the first instance”). Here,
14 by contrast, there is simply no direct conflict between statutes authorizing delivery of early
15 mail ballots and the regulation of drop boxes as one such means of delivery.³

16 Plaintiffs attempt to manufacture a conflict between Arizona statute and the EPM by
17 arguing that Arizona law requires that ballots be either mailed or otherwise delivered or
18 deposited “in person,” Resp. at 13—notwithstanding the fact that no such limitation exists
19 in the statutory language. In so doing, Plaintiffs overread the statutory language providing
20 that early mail ballots may be “delivered to the *office* of the county recorder or other officer
21 in charge of elections.” A.R.S. § 16-547(D) (emphasis added). When read in conjunction
22 with A.R.S. § 16-548(B) (allowing early ballots to be “delivered or mailed to the county
23 recorder or other officer in charge of elections”), these statutes together indicate that “the
24 office of the county recorder” is synonymous with “the county recorder.” *See Schultz v.*
25

26 ² For instance, “dispatch[ing] door-to-door ballot harvesters” as Plaintiffs purportedly fear,
27 Resp. at 10, would likely run afoul of Arizona law imposing strict limits on the collection
28 of another’s early ballot, A.R.S. § 16-1005(H).

³ Contrary to Plaintiffs’ suggestion, Resp. at 17, a reference to drop boxes in a statute
concerning polling place procedures does not conflict with or otherwise prohibit the use of
drop boxes in early ballot collection, A.R.S. § 16-579.02. *See Intervenors’ Mot.* at 12.

1 *Schultz*, 243 Ariz. 16, 19 (App. 2017) (explaining that courts interpreting statutes should
2 “consider all relevant statutory provisions and attempt to interpret related statutes
3 consistently and harmoniously”). Indeed, a commonsense reading of Arizona law refutes
4 the notion that the Legislature intended the “office of the county recorder” to signify the
5 physical location of the office rather than the representative who holds office. Just as
6 statutes authorizing “[t]he office of the governor [to] accept and spend. . . monies,” A.R.S.
7 § 41-108(B), or mandating that “[t]he office of the attorney general shall adopt rules,”
8 A.R.S. § 44-7111, refer to officers and not their physical locations, the “office of the county
9 recorder” refers to the recorder himself and not his brick-and-mortar office.

10 Nor does the requirement that early ballot envelopes contain the postal address of
11 the county recorder demonstrate that early voters must deliver their mail ballots in person
12 to that address. *Contra* Resp. at 13 (citing A.R.S. § 16-547(A)). Early mail voters can
13 choose to deliver or mail their ballots to the county recorder or other elections officer, or
14 deposit them at a polling place. A.R.S. § 15-548(A). The postal address on ballot envelopes
15 helps voters who chose the mail option, but the existence of a postal address does not
16 preclude delivery by means other than mail or in-person deposit at a drop box. *Id.*

17 Plaintiffs further contend that the 7:00 p.m. deadline for ballot receipt implicitly
18 requires in-person delivery at election offices rather than delivery via drop box. Resp. at 16.
19 But this deadline creates no conflict at all. Arizona law requires all ballots to “be received
20 by the county recorder or other officer in charge of elections or deposited at any polling
21 place in the county no later than 7:00 p.m. on election day.” A.R.S. § 16-548(A). Neither
22 this ballot receipt deadline statute nor the ballot delivery deadline statute requires county
23 recorders to have ballots physically in-hand by 7:00 p.m. on election day. Rather, county
24 recorders receive, or “come into possession” of ballots when they are deposited in drop
25 boxes. Ex. 1, Merriam-Webster.com Dictionary, [https://www.merriam-](https://www.merriam-webster.com/dictionary/receive)
26 [webster.com/dictionary/receive](https://www.merriam-webster.com/dictionary/receive) (last visited Dec. 7, 2023). If the Legislature intended for
27 voters to physically deposit their ballots in person at the county recorder’s office or at a
28 polling place, it could have written these requirements into law, but it did not. Moreover,

1 the separate requirement that “[t]he office of the county recorder or other officer in charge
2 of elections shall remain open until 7:00 p.m. on election day for the purpose of receiving
3 early ballots,” A.R.S. § 16-551(C), has no bearing on—and is consistent with—the use of
4 drop boxes. The fact that election offices must remain open for those voters who elect to
5 deliver their ballots in person does not limit receipt to in-person hand delivery.

6 Finally, Plaintiffs’ disputes with the definition of “deliver” only illustrate why the
7 term is entirely consistent with the use of unstaffed drop boxes. The definition of
8 “deliver”—“to take and hand over to or leave for another,” Ex. J, Merriam-Webster.com
9 Dictionary, <https://www.merriam-webster.com/dictionary/deliver> (last visited Nov. 13,
10 2023)—does not require in-person delivery. Plaintiffs do not dispute that this is the
11 ordinary, common definition of “deliver,” but argue that it does not “function in context.”
12 Resp. at 15. Plaintiffs cannot reject the definition of “deliver” just because it does not
13 support their preferred result. *DBT Yuma, L.L.C. v. Yuma Cnty. Airport Auth.*, 238 Ariz.
14 394, 396 (2015) (explaining that courts “generally give words their ordinary meaning . . .
15 and may look to dictionary definitions”). Additionally, there is no merit to Plaintiffs’ request
16 that this Court disregard the definition of “deliver” because it is too similar to the definition
17 of “deposit.” Resp. at 15. The definitions of these words are far from “identical,” *see* Resp.
18 at 15 (citing *La Sota Decl. Ex. B*),⁴ but even if they were similar, there is no basis to
19 disregard the primary definition of one of the two words.⁵

20 Ultimately, contrary to Plaintiffs’ suggestion that Intervenors’ interpretation of
21 “deliver” would allow a voter to “leave a ballot for an election official anywhere,” Resp.

23 ⁴ Plaintiffs repeatedly cite a declaration of Mr. La Sota and its corresponding exhibits (*see*,
24 *e.g.*, Resp. at 15, citing “La Sota Decl. Ex. A”) which was never served on Intervenor-
25 Defendants, or—as far as Intervenors have been able to ascertain—ever filed on the docket
26 in this case. This non-existent declaration appears to reference the Oxford English
27 Dictionary definitions of the word “deliver.” Intervenor-Defendants attach as Exhibit 2 to
28 this Reply the Oxford English Dictionary definitions of the word “deliver” to support their
reply and to preserve any related argument.

⁵ Plaintiffs’ citation to a case applying the *expressio unius* canon of statutory construction
simply does not state that two words in a statute may not have similar or overlapping
meaning. Resp. at 16 (quoting *Arizona Bd. of Regents for & on Behalf of Univ. of Arizona*
v. State ex rel. State of Ariz. Pub. Safety Ret. Fund Manager Adm’r, 160 Ariz. 150, 157
(App. 1989)).

1 at 18, both Arizona statute and the EPM safeguard against the parade of horrors Plaintiffs
2 envision. The Legislature has directed the Secretary to prescribe ballot collection rules to
3 achieve “the maximum degree of correctness, impartiality, uniformity and efficiency,”
4 A.R.S. § 16-452(A). In turn, the rules prescribed by the Secretary, written in the EPM, and
5 approved by the Governor and Attorney General in 2019, set forth precisely “where, when,
6 [and] how” voters may return their early ballots, Resp. at 17, including procedures allowing
7 voters to deliver their early ballots via unstaffed drop boxes. SOF ¶¶ 12, 16–23; Ex. A at 3–
8 7. Neither Arizona law nor the EPM allows voters to “choose” how they deliver their early
9 ballots to an election official, Resp. at 18. Rather, the law entrusts Arizona’s elected
10 executive officials to establish safe and secure means of ballot collection. The EPM’s
11 authorization of unstaffed drop boxes does just that. See Ex. A at 5–7 (articulating
12 safeguards to ensure the security of drop boxes).

13 Plaintiffs’ attempts to undo the Legislature’s delegation of authority to the Secretary
14 and fabricate a conflict between unstaffed drop boxes and other provisions of election law
15 fail as a matter of law. Because the Secretary acts well within his delegated authority in
16 regulating unstaffed drop boxes, Intervenor is entitled to summary judgment.

17 **III. Intervenor is entitled to summary judgment on Plaintiffs’ request for**
18 **injunctive relief.**

19 Plaintiffs all but concede they will not be irreparably harmed by Arizona’s continued
20 use of unstaffed drop boxes. See Resp. at 7. Their failure to articulate any harm absent their
21 requested relief is alone sufficient grounds to grant summary judgment to Intervenor. See
22 *City of Flagstaff v. Ariz. Dep’t of Admin.*, 526 P.3d 152, 159 (App. 2023) (vacating trial
23 court’s grant of injunctive relief because plaintiff failed to show irreparable harm).

24 Plaintiffs also fail to adequately address Intervenor’s evidence of the real and
25 imminent harms the elimination of unstaffed drop boxes would impose on Intervenor’s
26 members and constituents. Plaintiffs argue that Intervenor cannot show harm absent proof
27 that voters would be entirely disenfranchised by the elimination of unstaffed drop boxes,
28 Resp. at 20, but Plaintiffs cite no support for such a proposition. This is not surprising:

1 courts consistently hold that interferences on the right to vote amount to irreparable injury.
2 *See Ariz. Democratic Party v. Ariz. Republican Party*, No. CV-16-03752-PHX-JJT, 2016
3 WL 8669978, at *11 (D. Ariz. Nov. 4, 2016) (“[I]t is clear that abridgement of the right to
4 vote constitutes irreparable injury.”); *Cardona v. Oakland Unified Sch. Dist.*, 785 F. Supp.
5 837, 840 (N.D. Cal. 1992) (“Abridgement or dilution of a right so fundamental as
6 the right to vote constitutes irreparable injury.”); *Obama for Am. v. Husted*, 697 F.3d 423,
7 436 (6th Cir. 2012) (“A restriction on the fundamental right to vote . . .
8 constitutes irreparable injury.”). Intervenors have presented ample evidence that their
9 members and constituents’ right to vote will be “abridged, or altogether extinguished” by
10 Plaintiffs’ requested relief, and thus have established that the elimination of drop boxes
11 would cause irreparable harm. *Ariz. Democratic Party*, 2016 WL 8669978, at *11;
12 Intervenors’ Mot. at 14–16.

13 Plaintiffs ignore evidence that many Arizonans, including Intervenors’ members and
14 constituents, do not have easy or reliable access to mail services. SOF ¶ 50; Intervenors’
15 Mot. at 15–16. Further, Plaintiffs’ false equivalence between the burdens of *obtaining* mail
16 ballots and the burdens of *returning* mail ballots, Resp. at 20, ignores the fact that the latter
17 comes with a far stricter deadline, A.R.S. § 16-548(A), and a far more dire consequence for
18 missing that deadline—ballot rejection.

19 Moreover, Plaintiffs fail to counter Intervenors’ argument that their delay in bringing
20 this lawsuit, years after countless Arizonans have come to rely on this voting method,
21 weighs against their requested injunctive relief. *See* Intervenors’ Mot. at 16. Plaintiffs’
22 claim that they did not delay because they filed suit mere weeks after the 2023 EPM was
23 transmitted to the Governor is disingenuous. Resp. at 19. As Plaintiffs are well-aware, the
24 2023 EPM is not currently in effect, the act of transmitting it to the Governor is not legally
25 significant, the EPM has regulated unstaffed drop boxes since 2019, and unstaffed drop
26 boxes have existed in Arizona for decades. *See* SOF ¶¶ 14–16, 24–26.

27 Finally, Plaintiffs’ evidence from Mohave County and Cochise County of high voter
28

1 turnout asks this Court to compare apples to oranges. Resp. at 20–21.⁶ Those counties never
2 used unstaffed drop boxes. *See* Kentch Decl. ¶ 6; Stevens Decl. ¶ 6. Especially without
3 knowledge of each county’s demographics and other relevant data, that a county without
4 drop boxes has higher turnout than a county with drop boxes sheds no light on how the
5 *elimination* of drop boxes would affect voters. For those Arizonans who have relied on
6 unstaffed drop boxes to cast their vote, removal of this voting method would result in
7 additional burdens, confusion about where and how to vote, and ultimately lower turnout
8 and even result in denial of access to the franchise. Intervenor’s Mot. at 15–16; *see also*
9 David Schultz, *Less Than Fundamental: The Myth of Voter Fraud and the Coming of the*
10 *Second Great Disenfranchisement*, 34 Wm. Mitchell L. Rev. 483, 502 (2008) (“[E]mpirical
11 evidence from political scientists [] demonstrate that as the costs of voting increase,
12 registration and turnout decrease.”) (citing Expert Report and Affidavit of Marjorie R.
13 Hershey, *Ind. Democratic Party v. Rokita*, 2005 WL 4019117 (S.D. Ind. October 25,
14 2005)); *id.* (examples of “costs of voting” include “time to register to vote, waiting times,
15 financial and informational costs, registration laws, and physical barriers”). The balance of
16 hardships weighs decidedly in Intervenor’s favor.

17 CONCLUSION

18 For these reasons, this Court should dismiss Plaintiffs’ complaint for lack of standing
19 or grant Intervenor-Defendants summary judgment.

20 RESPECTFULLY SUBMITTED this 8th day of December, 2023.

21 **COPPERSMITH BROCKELMAN PLC**

22 By: /s/ D. Andrew Gaona

23 D. Andrew Gaona

24 Austin C. Yost

25 _____
26 ⁶ Plaintiffs’ Response to Intervenor’s Statement of Facts includes a controverting statement
27 of facts, which is procedurally improper. Arizona Rule of Civil Procedure 56(c)(3)(B)
28 authorizes a party opposing summary judgment to specify in a controverting statement of
facts only “the numbered paragraphs in the moving party’s statement that are disputed” and
“those facts that establish a genuine dispute or otherwise preclude summary judgment in
favor of the moving party.” Regardless, these additional facts fail to demonstrate that the
elimination of drop boxes does not harm voters.

1 **ELIAS LAW GROUP LLP**

2 Abha Khanna*
3 Marilyn Gabriela Robb*
4 Elena A. Rodriguez Armenta*
5 Makeba Rutahindurwa*

6 *Attorneys for Intervenor-Defendants Arizona
7 Alliance for Retired Americans and Voto Latino*

8 * *Application Pro Hac Vice Forthcoming*

9 ORIGINAL e-filed and served via electronic
10 means this 8th day of December, 2023, upon:

11 Honorable John D. Napper
12 Yavapai County Superior Court
13 c/o Felicia L. Slaton
14 Div2@courts.az.gov

15 Timothy A. La Sota
16 tim@timlasota.com
17 Timothy A. La Sota, PLC
18 2198 East Camelback Road, Suite 305
19 Phoenix, Arizona 85016

20 Thomas G. Olp
21 tolp@thomasmoresociety.org
22 Thoms More Society
23 309 West Washington Street, Suite 1250
24 Chicago, Illinois 60606

25 *Attorneys for Plaintiffs*

26 Kara Karlson
27 Kara.Karlson@azag.gov
28 Karen J. Hartman-Tellez
Karen.Hartman@azag.gov
Kyle Cummings
Kyle.Cummings@azag.gov
Arizona Attorney General
2005 North Central Avenue
Phoenix, Arizona 85004-1592

*Attorneys for Defendant Arizona Secretary
of State Adrian Fontes*

/s/Verna Colwell

EXHIBIT 1

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< receive



Dictionary

Thesaurus



Rea

receive verb

re·ceive (ri-'sēv)**received; receiving**[Synonyms of receive >](#)*transitive verb*

- 1** : to come into possession of : **ACQUIRE**
receive a gift
- 2 a** : to act as a **receptacle** or container for
the cistern *receives* water from the roof
b : to **assimilate** through the mind or senses
receive new ideas
- 3 a** : to permit to enter : **ADMIT**
b : **WELCOME, GREET**
c : to react to in a specified manner
- 4** : to accept as authoritative, true, or accurate : **BELIEVE**
- 5 a** : to support the weight or pressure of : **BEAR**
b : to take (a mark or **impression**) from the weight of something
some clay receives clear impressions

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Dictionary

Thesaurus

received a broken nose

intransitive verb

- 1 : to be a recipient
- 2 : to be at home to visitors
receives on Tuesdays
- 3 : to convert incoming radio waves into **perceptible** signals
- 4 : to prepare to take possession of the ball from a kick in football

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admit

enter

take

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EXHIBIT 2

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deliver

VERB¹

MEANING & USE

i. To rescue, liberate, or set free, and related senses.

I.1.a. *transitive.* To liberate or save (a person, country, etc.) *from* (also †*of*) a state of evil, danger, oppression, etc. Also **?c1225–** in weakened use: to free (a person, etc.) *from* something unpleasant or undesirable. Frequently with reference to God conceived as liberating humankind from evil or danger; cf. **deliverer** *n.* 1.

?c1225 Nolde ha neuer eanes bisechen ure lauerd pet he aliunge **deliuerede** hire perof.
(?a1200) *Ancrene Riwe* (Cleopatra MS. C.vi) (1972) 173

...

2018 Our consistent reflection upon our ultimate redemption is precisely what imbues us with an appreciation that Hashem will **deliver** us from our ordeals.
Jerusalem Post (Nexis) 30 March 17

I.1.b. *transitive.* Without construction. To save, rescue, release, or liberate (a person or thing); *spec.* to release (a prisoner) from prison. Now only with reference to God conceived as liberating humankind from evil or danger; cf. sense **I.1a** and **deliverer** *n.* 1. **a1275–**

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α1275 Wen wimon bet scal be.. **deliure** hire myd menske.

St. Margaret (Trinity Cambridge MS.) l. 283 in A. S. M. Clark, *Seint Maregrete & Body & Soul* (Ph.D. diss., Univ. of Michigan) (1972) 101

...

2011 If we can remain constant during the ever-changing tides of life and the unwanted circumstances life brings, we will please God and find that he always **delivers** us.

J. Meyer, *Living Beyond Feelings* vii. 73

I.1.c. *transitive (reflexive)*. To free (oneself) *from* (also †*of*, †*out of*) a place, trouble, danger, etc.; to rid (oneself) of a person or prejudice. Also in weakened use. Now rare.

c1405-

c1405 Euery man Wol helpe hym self..And eek **deliuere** hym self out of prison.

(c1385) G. Chaucer, *Knight's Tale* (Hengwrt MS.) (1868) l. 1769

...

1990 He meant only to **deliver** himself from the streets, not life; he didn't count on murder.

S. Morgan, *Homeboy* ii. 27

I.1.d. *transitive*. To release (a person) *from* a place; to rescue (a person) *out of* a place. In early use also: *spec.* to release (a prisoner) from prison. Now chiefly *archaic* or with reference to God conceived as liberating humankind from evil or danger; cf. **deliverer** *n.* 1.

?a1425-

In later use influenced by or merging with sense **I.1.a.**

?α1425 Scho **delyuerd** þe lordes oute of þe toure.

Mandeville's Travels (Egerton MS.) (1889) 45

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archaic

I.2.a. *transitive*. To assist (a woman or other female mammal) to give birth, or in the birth of a child or offspring. **c1300–** Frequently in *passive*. Now chiefly *archaic*.

In early use, perhaps with the implication of freeing a woman or other female mammal from a burden.

figurative in quot. 1634.

c1300 Þe Quen a-non.. deliuered was of childe.

St. Leonard (Laud MS.) l. 49 in C. Horstmann, *Early South-English Legendary* (1887) 458

...

1634 My brain's in labour, and must be deliuered Of some new mischeife.

T. Heywood, *Maidenhead Lost* i, in *Works* (1874) vol. IV. 108

...

2014 I was with Lucy Pierce when she was in travail... I delivered her of a stillborn child.

S. Thomas, *Witch Hunter's Tale* 130

obstetrics

archaic

I.2.b. *transitive*. Chiefly in *passive*. To bring forth (a child or offspring) *from* its mother; to assist in the birth of (a child or offspring). Also *figurative* and in *figurative* contexts. **?c1450–**

?c1450 For to diliuerin a deed chyid from a woman.

in G. Müller, *Aus mittelenglischen Medizintexten* (1929) 46 (Middle English Dictionary)

...

2012 On more than one occasion Dr Knight and Dr Renshaw have delivered the baby from a woman they actually saw born decades earlier.

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I.2.c. *transitive*. To give birth to (a child or offspring). Also *figurative* and in figurative contexts. *rare* in the 17th and 18th centuries. **?a1518-**

?a1518 Or euer I was retourned the noble lady had **delyuered** two fayre sonnes.

H. Watson, *Ualentyne & Orson* (1555) xxv. sig. X.i^v

...

2014 Her only request is for her husband to be by her side on the day she **delivers** their baby.

Filipino Reporter (New York) 17 January 42

obstetrics

I.3.a. *transitive*. To rid or relieve (a person) of (also †*from*) something, esp. pain or discomfort; to rid (a thing) of (also †*from*) something undesirable. Now *rare*. **c1325-**

In quot. **1562**: to divest (oneself).

c1325 **Deliuery** we ssolle it of þis folc þat her Inne is, & of folc velle it vol of ure kunde.

(c1300) *Chronicle of Robert of Gloucester* (Caligula MS.) l. 2067

...

1562 It pleased him [Christ] to **deliver** himself of all His godly honour.

Homilies (1859) ii. Good Friday 411

...

2008 He's **delivered** it [*i.e.* tearfulness] of its triviality, dissolving away my lack of discretion.

A. Hunter, translation of A. Desarthe, *Chez Moi* 40

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1632 That so his momentary passion..might by some like intermission of time be **deliuered** and so languish away.
Guillim's Display of Heraldrie (ed. 2) iv. v. 287

medicine

I.4. *transitive (reflexive)*. To express oneself in words; to give a speech, sermon, or utterance. Also with *of*. Cf. sense **a1400–III.14**.

In this sense probably influenced by sense **I.2**.

a1400 I **delyuered** me of my sermoun.
(a1325) *Cursor Mundi* (Trinity Cambridge MS.) l. 20391

...

2012 There were those who had felt moved..to **deliver** themselves of wild, unanswerable orations, complete with hand gestures and table-poundings.
 M. Chabon in *New Yorker* 13 February 90/3

I.5. † *transitive*. To expel (something) from the body; to vomit or defecate (something). Also in **to deliver one's stomach**: to vomit. *Obsolete. rare*. In early use also occasionally *intransitive*. **?a1425–1851**

?a1425 Flours delise is a souerayne worcher for the dropsy; as pis, kyt the rote drounwarde [*read* dounwarde], and he shall **delyuer** be nethe.
(?1373) *Lelamour Herbal* (1938) f. 25 (Middle English Dictionary)

...

1851 The brace of revellers went staggering over the azotea, **delivering** their stomachs.
 M. Reid, *Scalp Hunters* vol. II. xi. 196

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Perhaps implying that the winner will be released from a state of dishonour.

1440 The qwych knyght wyl renne a cours wyth a sharpe spere for his souereyn lady sake; qwom othyr Ser Richard Woodvyle or Ser Cristofore Talbot shall delyuer, to the wyrchip of Englund and of hem selff.

R. Repps in *Paston Letters & Papers* (2004) vol. II. 22

...

1523 Then it was sayd to all the knightes there about, Sirs, is there any of you that will delyuer this knight?.. Sir Wylliam of Fermyton..sayd..if it pleases him a lytell to rest hym, he shall anone be delyuered, for I shall arme me agaynst hym.

Lord Berners, translation of J. Froissart, *Cronycles* vol. I. ccclxxiii. 617

1.7. † *transitive*. To remove goods from (a ship); to unload (a ship) of cargo. Cf. [liver v. 1b](#). *Obsolete*.

1486–1805

In quot. [1486–7](#) *delyuyrd* is apparently elliptical for 'was being delivered'.

1486–7 My costys at London whyle the shyp delyuyrd.

Cely Papers in English Studies (1961) vol. 42 149

...

1805 Delivered the Spaniard, and sunk her.

in A. Duncan, *Nelson* 231, 26th.

nautical

1.8. *transitive*. To empty (a prison) of prisoners in order to bring them to trial at an assize court. Also occasionally extended to other courts. Now *historical*.

1523–

Assizes were held once a year in each county of England and Wales to administer civil and criminal law, and typically heard the most serious of cases. In 1972 the civil jurisdiction of assizes was transferred to the High Court, and the criminal jurisdiction to the Crown Court.

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2015 The justices who were sent to **deliver** the jail were remarkable in their leniency. One hundred and ninety eight people, not yet tried, were released outright.

W. C. Jordan, *From France to Eng.* Notes 158

law

historical

I.9. Brickmaking, Ceramics, Founding, etc.

I.9.a. † *intransitive*. Of a mould or cast: to release bricks, glass, pottery, etc. Also of bricks, glass, pottery, etc.: to come out of a mould or cast. *Obsolete*. **1783–1888**

1783 To make the clay **deliver** easily, it will be necessary to oil the mould.

J. Wedgwood in *Philosophical Transactions 1782* (Royal Society) vol. 72 310

...

1888 A pattern hangs to the sand when it **delivers** with difficulty.

Lockwood's Dictionary Mechanical Engineering 172

ceramics

brickmaking

metal industry

I.9.b. *transitive*. To remove (bricks, glass, pottery, etc.) *from* a mould. Also of a mould: to release (a brick, glass, pottery, etc.). **1809–**

1809 The bricks are **delivered** from the mould and ranged on the ground.

W. Nicholson, *British Encyclopedia* vol. 1. at *Brick*

...

2011 The higher rigidity of the DLP material in combination with the backed up walls leads to a mold that **delivers**

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II. To surrender or hand over, and related senses.

II.10.a. *transitive*. To give up (also over) possession of (a person or thing); to surrender (a castle, town, hostage, etc.). **c1300–**
Also formerly: †*spec.* to hand over (a person or thing) to a specified fate, ruin, destruction, etc. (*obsolete*).

c1300 The Kinges baillyf **delyvri** him to anhonge other to drawe.

Life & Martyrdom of Thomas Becket (Harley MS. 2277) (1845) l. 724

...

1998 In Scotland employers can request a court order obliging the employee to **deliver** up the relevant property, and can ask that a search warrant be granted to Sheriff Officers, enabling them to search the employee's premises.

I. Hunter, *Which? Guide to Employment* vii. 146

II.10.b. *transitive (reflexive)*. To devote or commit (oneself) to something, esp. study or the gaining of knowledge. *rare*. **a1533–**

a1533 I **delyvered** my selfe with greate desyre to knowe thynges.

Lord Berners in translation of A. de Guevara, *Golden Boke of Marcus Aurelius* (1535) Prologue sig. A.iv

...

1995 I **delivered** myself to yama in the year nineteen hundred and eleven, or in the english way, eighteen hundred and eighty nine after christ.

V. Chandra, *Red Earth & Pouring Rain* (1996) 11

II.11.a. *transitive*. To convey and hand over (something, esp. letters, parcels, or goods); to take (something) to (also †*unto*) a specified recipient or address. Also with double object (now *rare*). **c1300–**

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c1300 Schewe us þat tresour..and **de-liuere** it þe Aumperour!

St. Laurence (Laud MS.) l. 67 in C. Horstmann, *Early South-English Legendary* (1887) 342

...

2009 I cleaned my apartment so the guys **delivering** my new furniture wouldn't get the right idea about my normal housekeeping habits. I am my mom.

@ThoreauPillow 16 June in *twitter.com* (accessed 23 Apr. 2020)

II.11.b. *intransitive*, chiefly with object implied. To convey and hand over something, esp. letters, parcels, or goods. *rare* **1530-** before 19th cent.

1530 I **Delyuer** I gyue a thyng in to ones handes to kepe, *le liure*.

J. Palsgrave, *Lesclarcissement* iii. f. ccvii/2

...

2005 That sofa-table in the window. When would you be able to **deliver**?

C. Alliott, *Not that Kind of Girl* vii. 121

II.11.c. *transitive. figurative*. To hand over or present (a person or thing). Chiefly in **to deliver (a person or thing) to the world**: to present (a person or thing) to the public. *rare* after 17th cent. **a1616-**

a1616 O that I..might not be **deliuered** to the world Till I had made mine owne occasion mellow.

W. Shakespeare, *Twelfth Night* (1623) i. ii. 38

...

1996 The internet..not only **delivers** the world to us, but also **delivers** us to the world.

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- 1626** The Steward is to **deliuer** out the victuall, according to the Captaines directions.
J. Smith, *Accidence Young Sea-men* 5
- ...
- 1908** The conductor..took twopenny fares from each passenger..but **delivered** out no tickets whatever.
Southern Daily Echo (Southampton) 24 January 2/6

II.12.a. *transitive. figurative.* To impart or provide (something, esp. knowledge or a service). Also in later use: to provide (something that is promised or expected). Formerly also with †*down*.

c1300–

- c1300** þe beste seruiz þat þou wolt cheose, man schal **deliueri** [c1300 *Harley MS.* delyurie] þe.
St. Christopher (Laud MS.) l. 42 in C. Horstmann, *Early South-English Legendary* (1887) 272
- ...
- 2020** He..set the tone of the new government, focusing on **delivering** Brexit.
Financial Times 18 January 16

II.12.b. *intransitive.* To provide something that is promised or expected; do something well; to perform. Also (and in earliest use) with *on*. Cf. *to deliver the goods at good adj., n., adv., & int. Phrases P.7a.*

1944–

- 1944** Now, whether they will **deliver** on the other thing remains to be seen.
in *Morgenthau Diary (Germany)* (U.S. Senate Comm. Judiciary) (1967) vol. I. 719
- ...
- 2016** Debate is intensifying over whether this approach to treating disease can truly **deliver** on its promise to revolutionize health care.
Scientific American (U.K. edition) April 16/2

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II.13.a. *transitive.* To hand over (goods, notices, etc.) to another person legally or formally; *esp.* to put (property) into the legal possession of another person. In early use chiefly in **to deliver seisin**; now frequently in **to deliver possession**. **1414-**

Cf. **delivery** *n.* I.1a.

1414-15 John shall deliuer fully & cleerly to the forsaide Thomas..all his right, state, and terme comyng in alle the forsayde tenementz.

in R. W. Chambers & M. Daunt, *Book of London English* (1931) 120

...

1965 While the plaintiff was temporarily absent from Calcutta..he asked the defendant to carry it on, delivering possession of the business and its premises.

Journal Indian Law Inst. vol. 7 214

II.13.b. *transitive.* Of the maker of a deed or his or her attorney: to hand over (a deed), either actually or notionally, as an acknowledgement of intent to be bound by it. **1528-**

Cf. **delivery** *n.* I.1b.

1528-30 If a man make a dede of fe[od]ffemente vnto another..and delyuereth to hym the deed but no lyuery of seysyn.

translation of T. Littleton, *Tenures* (new edition) f. vi

...

2015 If the property involved is not a principal residence, it will attract federal capital gains tax either when the deed is delivered or when it is registered, and tax advice should be sought in these circumstances.

Toronto Star (Nexis) 21 March (NH section) h6

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III.14.a. † *intransitive*. To utter or enunciate words; to speak on a subject; to pronounce a judgement, verdict, or opinion. *Obsolete*. **c1400–1911**

In quot. 1530 with reference to sung notes.

- c1400** Schir Williame of Dalyhel, knyght, Alexander of Ogilvy, schirraf of Angus, Wat of Ogilvy, and Williame of Fentoun, sworn to **delyuer** and ordane evinly for bath the partis eftir thair knowlage and cunningg.
in W. Fraser, *Memorials of Family of Wemyss* (1888) vol. II. 37
- 1530** I **delyver** quickly, as one dothe in syngyng..I never herde boye in my lyfe **delyver** more quyckely.
J. Palsgrave, *Lesclarcissement* 510/2
...
- 1911** It must require much effort on the part of the young and inexperienced girl to rise in the center of a vast audience, make her way to a platform and there, before seven or eight hundred people, most of them strangers, **deliver** clearly and distinctly.
Big Sandy News (Louisa, Kentucky) 27 January 1/1

music

III.14.b. *transitive*. To report or state (something); to communicate or relate (something) in words. **c1454–**

- c1454** If to a man in þe bigynnyng þe causis and whies schulden be **delyuerid**, to her resoun and to her examynacioun, her witt schulde be þerbi oppressid.
R. Pecock, *Folewer to Donet* 13 (Middle English Dictionary)
...
- 2020** These outlets do a great job of **delivering** the facts of what is going on in our country.
University Wire (Carlsbad) 26 March

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1576 To a question by him propounded, this answer was **deliuered**.

A. Fleming, translation of Cicero in *Panoplie of Epistles* 56

...

2010 Obama **delivered** a speech from the Oval Office on the oil spill in the Gulf.

Vanity Fair September 211/2

III.14.d. † *transitive*. With clause as object. To report or state (that something is the case). *Obsolete*.

1586–1698

1586 It was **deliuered** he hong himself for grieffe.

A. Day, *English Secretorie* i. sig. F2^v

...

1698 Who founded these, their Annals nor their Sanscript **deliver** not.

J. Fryer, *New Account of East-India & Persia* 161

III.14.e. † *transitive*. With a person or thing as object and a clause as complement. To report or state that (a person or thing) is what is expressed by the complement. *Obsolete*.

1617–1711

1617 Foure thousand Spaniards (for so the prisoner that we tooke **deliuered** them to be upon his saluation).

F. Moryson, *Itinerary* ii. ii. ii. 154

...

1711 This Pseudo-Ambrose doth not **deliver** it to be the Catholick and uninterrupted Belief and Practise of the Church; but only gives his opinion.

G. Cary, *Physician's Phylactic* 248

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1809 The beautiful passages allotted to the hautboy,..being so very exquisitely **delivered**, commanded our admiration as much of the performer as of the music.

W. Nicholson, *British Encyclopedia* vol. IV. at *Musical Instruments*

...

2012 He immersed himself in the second movement of Beethoven's 2nd Piano Concerto, **delivering** the piece with elegance and precision.

Nelson (New Zealand) Mail (Nexis) 16 July 2

arts

III.15.a. *transitive*. To aim or strike (a blow); to make or begin (an assault, attack, offensive). **to deliver battle**: to give battle; to make or begin an attack (now *rare*). **1433-**

1433 My said lorde of Bedford hath..many and diverse dayes kept þe felde, redy to have foghtyn and **delivered bataille** to þe kynges enemyys.

Rolls of Parliament: Henry VI (Electronic edition) Parl. July 1433 §17. m. 16

...

2005 Syria test-fired the three Scud missiles equipped with airburst warheads, reinforcing Israeli worries about Syria's ability to **deliver** a missile-borne chemical attack against Israeli civilian targets.

New York Times (National edition) 5 June 2005: 13/1

military

III.15.b. *transitive*. To discharge or release (ammunition, a missile, etc.). Also of a person: to throw or project (something held, esp. a ball). **1574-**

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2013 The deception of the sidewinder is that he is upright and then makes a drastic posture change, **delivering** the ball from a very odd and low angle.

D. Johnson, *Complete Guide Pitching* 106

weaponry

III.15.c. *transitive.* Of a pipe, valve, or other opening: to emit (a substance, esp. water); to discharge (a substance) *into* a receptacle. **1579-**

1579 Springes and watery places of the earth, from whence the fountaines come, which haue no meeting of hidden waters, nor hollowe places capable, readily to **deliuer** water from them.

T. North, translation of Plutarch, *Liues* 270

...

2014 When the Mediterranean broke into the Black Sea, it **delivered** water into the Black Sea basin at a rate of ten, fifteen cubic miles a day.

R. Farr, *Fire Seekers* v. 78

III.15.d. *transitive. Mining.* Of a mine: to produce or yield (a commodity). **1605-**

1605 The mynes..do **deliuer** Gold, Siluer, Copper.

R. Verstegan, *Restitution of Decayed Intelligence* ii. 51

...

2011 Today, after a long but slow decline the basin **delivers** each year ~300 t gold, 3000 t uranium and 1000 kg osmiridium.

W. L. Pohl, *Econ. Geology* ii. 219/1

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1895 The Committee thinking it desirable that the new thoroughfare shall **deliver** directly into and on a level with the Strand.

Daily News 1 October 3/1

...

2014 Local roads **deliver** traffic to collector roads, which **deliver** traffic to arterials, which **deliver** traffic to limited-access highways.

V. Dover & J. Massengale, *Street Design* i. 27/1

III.16. † *transitive*. To move (a part of the body) readily and quickly; to use (physical strength) with nimbleness or agility. Cf. **deliver** *adj.* 2, **delivery** *n.* III.9. *Obsolete. rare.* **1590–1845**

1590 Not Musidorus, no nor any man living (I thinke) could performe any action..more strongly, or **deliver** that Strength more nimbley.

Sir P. Sidney, *Covntesse of Pembrokes Arcadia* ii. vii. f. 130^v

1845 He [a horse] must..be taught to raise his knee and **deliver** his leg with freedom.

Journal of Royal Agricultural Society vol. 5 ii. 530

iv. † To get rid of or dispatch.

IV.17. *transitive*. To finish or dispose of (something) rapidly; to kill (a person) quickly. *Obsolete.* **c1400–50**

c1400 Me forpyneƷ ful much þat euer I mon made; Bot I schal **delyuer** and do away þat doten on þis molde.

(?c1380) *Clanness* (1077) l. 286

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IV.18.a. *intransitive*. To hurry, make haste. *Obsolete. rare.*

a1450–1530

a1450 I am douty to þis dede; **delyuer**! haue done!

York Plays (1885) 279 (Middle English Dictionary)

1530 I **delyver**, I rydde or dispatche thynges shortly out of handes, *Je despeche.*

J. Palsgrave, *Lesclarcissement* 510/2

IV.18.b. *transitive (reflexive)*. To hurry (oneself). *Obsolete.*

a1475–1572

a1475 (1450) And **delyuer** the [a1460 *anon. tr.* that ye make diligence] to þonische eville doers also soone as to the schalle appere there delite.

S. Scrope, translation of *Dicts & Sayings of Philosophers* (Bodleian M.S. 943) (1999) 30 (Middle English Dictionary)

...

1572 (a1500) **Deliuer** the..and mak na delay.

Taill of Rauf Coilgear (1882) 302

Phrases

P.1. *to deliver (on) the goods*: see **good** *adj., n., adv., & int.* Phrases P.7a.

P.2. to deliver on one's promise and variants: to provide what one has promised; to keep one's word.

1912–

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2011 We remained laser-focused on the construction of Marina Bay Sands and on delivering our promise to the Singapore government and to her people.

Sphere Spring 56/1

ETYMOLOGY

Summary

A borrowing from French.

Etymon: French *delivrer*.

< **Anglo-Norman** *diliverer, dilivrer*, **Anglo-Norman** and **Old French, Middle French** *deliverer, delivrer* (**French** *délivrer*) to free, liberate (c1050 implied in the deverbial adjective *delivre* **deliver** *adj.*; late 12th cent. used reflexively in the specific sense 'to set oneself free, to escape'), to assist (a woman) to give birth to a child (beginning of the 12th cent.), to clear, empty (a room) (1139), to rid (a place) of (a person, something evil) (second half of the 12th cent.), (of a woman) to give birth to (a child) (mid 13th cent.), to hand (a person or thing) over, to surrender (a person or thing) (end of the 13th cent. or earlier), to get rid of (something) (beginning of the 14th cent. or earlier), in **Anglo-Norman** also to acquit (a person) of an obligation (14th cent. or earlier), to recover (goods distrained) (a1421 or earlier) < **post-classical Latin** *deliberare* to set free, liberate (6th cent.; frequently from 10th cent. in British sources), to hand over, entrust (frequently from 11th cent. in British and continental sources). to clear (a jail) by removing the prisoners for trial (frequently from

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Compare **Old Occitan** *delivrar*, *deslivrar*, **Catalan** *deslliurar* (13th cent.), **Spanish** †*delibrar* (c1200), **Italian** *deliberare* (mid 13th cent.).

In **classical Latin** *dēliberāre* had a different sense: see **deliber** *v.*

Specific forms.

In **Middle English** prefixed and unprefixed forms of the past participle are attested (see **y-** *prefix*).

With the forms in *des-* compare **de-** *prefix* 1*f.*

Most **β forms** reflect assignment to the weak Class II conjugation (see **-y suffix**²); these are typically forms from the west midlands and the south. Occasional similar forms from other regions (e.g. Lincolnshire, Ireland), where one would not expect to find the reflex of the weak Class II suffix, are probably influenced by **delivery** *n.*

PRONUNCIATION

BRITISH ENGLISH

/dɪˈlɪvə/ 

duh-LIV-uh

U.S. ENGLISH

/dəˈlɪvər/ 

duh-LIV-uh

/diˈlɪvər/ 

dee-LIV-uh

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Variant forms

α.

Middle English	deleuyr, delevere, deliuyr, deluerd (past tense, transmission error), delyfere, delyuir, delyuire, delyuyr, delyvir, delyvyr, dilifere, diliver, dilyuere, dyliuere, dylyver
Middle English-1500s	delivre, delyuere, delyure, delyvre, diliuere, dilyuer, dylyuer
Middle English-1600s	deliuer, deliuere, deliure, delivere, delyuer, delyver, delyvere, diliuer
Middle English-	deliver
1500s	deleuere, dyliuer
1500s-1700s	diliver

Scottish

pre-1700	delayver, deleuer, delever, deliuer, deliuere, deliuir, delivir, delyuer, delyuere, delyuir, delyuyr, delyver, delyvere, delyvir, delyvre, delyvyr, delywer, delywring (present participle), diliuer, dilyuer, dyllywir, dylywer
pre-1700; 1700s-	deliver

β. Chiefly *southern* and *south-west midlands*

Middle English	deliueri, deliuary, deliuri, delivery, delyuary, delyuri, delyurie, delyvri
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deliver is one of the 2,000 most common words in modern written English. It is similar in frequency to words like *aid*, *perception*, *push*, *shift*, and *vessel*.

It typically occurs about 50 times per million words in modern written English.

deliver is in frequency band 6, which contains words occurring between 10 and 100 times per million words in modern written English. [More about OED's frequency bands](#)

Frequency of *deliver*, v.¹, 1750–2010

* Occurrences per million words in written English

Historical frequency series are derived from Google Books Ngrams (version 2), a data set based on a corpus of several million books printed in English between 1500 and 2010. The Ngrams data has been cross-checked against frequency measures from other corpora, and re-analysed in order to handle homographs and other ambiguities.

The overall frequency for a given word is calculated by summing frequencies for the main form of the word, any plural or inflected forms, and any major spelling variations.

Frequency of *deliver*, v.¹, 2017–2023

* Occurrences per million words in written English

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COMPOUNDS & DERIVED WORDS

Sort by **deliverance, n.** c1300-

The condition of being delivered (from, †of, or †out of confinement, evil, oppression, trouble, etc.); the action of delivering; liberation, rescue...

delivering, n. c1330-

The action of deliver, v.¹ (in various senses); delivery, deliverance. Also: an instance of this; a delivery.

liver, v. c1330-

transitive. To unload (goods) from a ship or other vehicle: to discharge cargo from (a ship). Also intransitive.

deliverer, n. c1350-

A person who sets free, rescues, or releases; a liberator, rescuer, saviour. Also: spec. God or (more usually) Christ, conceived as liberating a...

delivered, adj.¹ 1440-

That has been delivered (in various senses of deliver, v.¹).

undelivered, adj.¹ 1472-

Not handed over or transferred to another's possession; not delivered or distributed.

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The action of delivering or setting free someone (from or †for confinement, oppression, trouble, etc.); the condition of having been set free...

delivering, adj. 1550–

That delivers (in various senses of deliver, v.¹); in early use esp. that sets free or releases a person or people from harm or danger.

deliveress, n. 1608–

A female deliverer (in various senses of the noun); in early use esp. a woman who sets free or releases someone from harm or danger.

jail-deliver, v. ?1632

transitive. To rescue, save, or set (a prisoner) free; to deliver from jail.

deliverable, adj. & n. 1646–

That can or may be delivered (in various senses of the verb).

misdeliver, v. 1800–

transitive. To deliver to the wrong person or at the wrong place.

deliveree, n. 1805–

The person to whom something is delivered (in various senses of deliver, v.¹).

deliverment, n. 1819–1916

Deliverance from danger, evil, etc.; a liberation, rescue.

self-delivering, adj. 1847–

Designating a machine which automatically puts the product of a process into the desired state. Cf. self-delivery, n. 2.

deliveror, n. 1860–

A person who makes legal delivery of goods or property. Cf. delivery, n. I.1a.

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home-deliver, v. 1931-

transitive and intransitive. Of a company: to deliver (goods) to a person's home.

deliverology, n. 2007-

A target-driven process designed to ensure the successful implementation of reforms or achievement of policy goals within government or the public...

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