IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRAD RAFFENSPERGER, in his official capacity as Secretary of State for the State of Georgia,

Defendant,

BLACK VOTERS MATTER FUND, COMMUNICATION WORKERS OF AMERICA LOCAL 3204, and COMMUNICATION WORKERS OF AMERICA RETIRED MEMBERS COUNCIL,

and

COMMON CAUSE and ROSARIO PALACIOS,

Intervenor-Defendants.

Case No. 1:26-cv-00485-ELR

MEMORANDUM IN SUPPORT OF INTERVENORS BLACK VOTERS MATTER FUND, CWA LOCAL 3204, AND CWA LOCAL 3204 RETIRED MEMBERS COUNCIL'S MOTION TO DISMISS

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INTRODUCTION

The United States Department of Justice ("DOJ") seeks to build a nationwide database of registered voters, a scheme not authorized by Congress and contrary to federal laws assigning states the responsibility for maintaining voter registration. To accomplish this task, DOJ has demanded that nearly every state in the country turn over their full, unredacted voter lists, even though state laws often shield voter information on those lists—most notably driver's license numbers, social security numbers, and dates of birth—from disclosure. Georgia law is no exception: it designates as "confidential" and restricts from disclosure sensitive information such "the month and day of birth, the social security numbers, email addresses, and driver's license numbers of the electors, and the locations at which the electors applied to register to vote." O.C.G.A. § 21-2-225(b).

Because Secretary Raffensperger abided by Georgia's privacy laws in refusing to turn over this protected voter data, DOJ amplified its pressure campaign by suing Secretary Raffensperger last December, demanding the State's unredacted voter registration list. In its rush to sue, DOJ initially filed in the wrong district, as the court in the Middle District quickly found in dismissing the suit for lack of jurisdiction. *See* Order Dismissing Case, *United States v. Raffensperger*, No. 5:25-cv-00548 (M.D. Ga. Jan. 23, 2026), ECF No. 49. DOJ then sued again here.

DOJ's Complaint relies on a single cause of action brought under Title III of the Civil Rights Act of 1960 ("CRA"), which Congress enacted to combat the infringement or denial of the right to vote. Not surprisingly, this landmark civil rights law does not support DOJ's attempt to compel Georgia to turn over sensitive personal data of registered voters for several reasons. *First*, the CRA requires DOJ to provide a statement identifying the "purpose" of its investigation and the "basis" for its determination that a violation of federal voting rights law may have occurred. But DOJ failed to offer *any* basis for its demand, and its stated purpose—to assess Georgia's compliance with administrative list maintenance activities required under the National Voter Registration Act ("NVRA") and the Help America Vote Act ("HAVA")—is beyond the reach of Title III. *Second*, even a lawful Title III request does not preempt Georgia's privacy protections, which prohibit the Secretary from furnishing the sensitive voter data DOJ demands. *Finally*, the Privacy Act prohibits unfettered governmental possession of individuals' personal information, and bars any collection of such sensitive data until the agency has implemented requisite procedural safeguards.

For these same reasons, federal courts in California and Oregon recently dismissed with prejudice DOJ's parallel lawsuits seeking the same types of sensitive data about voters in those states. In addition to thoroughly rejecting DOJ's claims on the merits, the California court warned that DOJ's efforts are "antithetical to the

promise of fair and free elections our country promises and the franchise that civil rights leaders fought and died for," *United States v. Weber*, No. 2:25-CV-09149-DOC-ADS, 2026 WL 118807, at *2 (C.D. Cal. Jan. 15, 2026), and the Oregon court found DOJ's demands "disturb the framework of federalism envisioned and enshrined in our Constitution." *United States v. Oregon*, No. 6:25-CV-01666-MTK, 2026 WL 318402, at *13 (D. Or. Feb. 5, 2026).[1] This Court should similarly dismiss the Complaint in this case with prejudice.

BACKGROUND

I. Federal law has long made voter list maintenance a state responsibility, consistent with the constitutional separation of powers.

The U.S. Constitution "invests the States with responsibility for the mechanics" of elections, subject to any decision by Congress to "preempt state legislative choices." *Foster v. Love*, 522 U.S. 67, 69 (1997); *see also* U.S. Const. art. I, § 4, cl. 1. Accordingly, as a default matter, the Constitution assigns states the responsibility for determining voter eligibility and maintaining lists of eligible voters. *See Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 17 (2013).

[1] A third federal court dismissed DOJ's parallel lawsuit in Michigan, concluding that Title III's scope does not extend to state voter lists. Opinion at 18–22, *United States v. Benson*, No. 1:25-CV-01148 (W.D. Mich. Feb. 10, 2026), ECF No. 67. Although the Michigan court disagreed with the other two courts on whether DOJ met Title III's basis and purpose requirements, *id.* at 13–18, the decision nonetheless underscores the lack of merit to DOJ's claim.

While Congress has enacted certain laws governing voter registration, these laws augment existing "state voter-registration systems," *id.* at 5, and confirm that states are the custodians of voter registration data. As relevant here, Congress enacted the NVRA in 1993 to serve "two main objectives: increasing voter registration and removing ineligible persons from the States' voter registration rolls." *Husted v. A. Philip Randolph Inst.*, 584 U.S. 756, 761 (2018); *see also* 52 U.S.C. § 20501(b). The law charges states—not the federal government—with the "administration of voter registration for elections for Federal office," 52 U.S.C. § 20507(a), including maintaining voter lists (subject to strict safeguards), *id.* § 20507(c)–(g).

In the wake of the 2000 elections, Congress enacted HAVA "to improve voting systems and voter access." *Republican Nat'l Comm. v. N.C. State Bd. of Elections*, 120 F.4th 390, 394 (4th Cir. 2024). Like the NVRA, HAVA regulates how states maintain their voter rolls, requiring them to create a "computerized statewide voter registration list." 52 U.S.C. § 21083(a)(1)(A). It also requires states to "perform list maintenance" consistent with the NVRA. *Id.* § 21083(a)(2)(A). HAVA is clear that this list is to be "defined, maintained, and administered at the State level." *Id.* § 21083(a)(1)(A). Further, HAVA commands that the "specific choices on the methods of complying with" HAVA "shall be left to the discretion of

the State." *Id.* § 21085. Indeed, HAVA's legislative history stressed the importance of maintaining our decentralized electoral system to preserving liberty:

> Historically, elections in this country have been administered at the state and local level. This system has many benefits that must be preserved. ***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.

H.R. Rep. No. 107-329, at 31–32 (2001) (emphases added).

Consistent with that principle, neither the NVRA nor HAVA authorizes the federal government to compile a national voter database. To the contrary, Congress has traditionally "left it up to the States to maintain accurate lists of those eligible to vote in federal elections." *Husted*, 584 U.S. at 761.

II. DOJ has embarked on an unprecedented nationwide campaign to collect personal voter registration data held by the states.

Last spring, DOJ launched a campaign to demand broad and unprecedented access to state voter files, including information about each registered voter. To date, DOJ has sent demands for unredacted voter lists to nearly every state and has so far sued 24 states (along with the District of Columbia) that refused to produce the requested information.[2]

[2] Kaylie Martinez-Ochoa, Eileen O'Connor, & Patrick Berry, *Tracker of Justice Department Requests for Voter Information*, Brennan Ctr. for Just. (Jan. 23, 2026), https://perma.cc/SBW7-HDHR.

Media outlets have reported that DOJ intends to share the voter lists across the federal government and use the data for immigration enforcement, to push for voter purges, and to cast doubt on the legitimacy of U.S. elections.[3] And DOJ officials have confirmed that they intend use the information to attempt to compel removal of hundreds of thousands of voters from state rolls and have publicly connected its efforts to demand state voter lists to immigration enforcement.[4] More broadly, President Trump recently has indicated an interest in having the federal government "take over the voting . . . in at least 15 places" and to "nationalize the voting."[5]

[3] *See, e.g.*, Nick Corasaniti, *Election Officials Press Trump Administration Over Voter Data*, N.Y. Times (Nov. 18, 2025), https://www.nytimes.com/2025/11/18/us/politics/election-officials-trump-voter-data.html; Emily Bazelon & Rachel Poser.

[4] *See* Assistant Attorney General Harmeet Dhillon (@AAGHarmeetDhillon), X (Dec. 18, 2025, at 9:24 AM ET), https://x.com/AAGDhillon/status/2001659823335616795 (stating in video discussing these lawsuits: "You're going to see hundreds of thousands of people in some States being removed from the voter rolls."); *Read Bondi's Letter to Minn. Governor*, N.Y. Times (Jan. 24, 2026), https://www.nytimes.com/interactive/2026/01/24/us/pam-bondi-walz-doc.html (Attorney General Bondi suggesting the surge of federal immigration agents in Minnesota is connected to its refusal to provide DOJ its unredacted voter list).

[5] Mariana Alfaro, *Trump Wants to "Nationalize the Voting," Seeking to Grab States' Power*, Wash. Post (Feb. 3, 2026), https://www.washingtonpost.com/politics/2026/02/02/trump-elections-nationalize-fraud/.

As part of this effort, DOJ sent Georgia a letter on August 7, 2025, demanding its "statewide voter registration list." Compl. ¶ 20; *see also* Ex. 1, Aug. 7, 2025 Letter. DOJ reiterated its request on August 14 and specified that it demanded "all fields" of the list, including each voter's full date of birth, driver's license number, and the last four digits of their social security number. Compl. ¶ 22. DOJ stated its purpose in demanding the data was "to ascertain Georgia's compliance with the list maintenance requirements of the NVRA and HAVA." Ex. 2, Aug. 14, 2025 Letter at 2; *see also* Compl. ¶ 9 (referencing an "investigation into Georgia's compliance with federal election law, particularly the NVRA and HAVA").

Secretary Raffensperger responded to DOJ on December 8. Compl. ¶¶ 24–25. He detailed Georgia's voter list maintenance efforts, which included sending over one million "list maintenance notices" in 2025 alone. Ex. 3, Dec. 8, 2025 Letter at 3. He also explained that Georgia recently canceled over 580,000 voter registrations and provided a table with a year-to-year breakdown of Georgia's extensive registration cancellation efforts since 2019. *Id.* He provided DOJ Georgia's public voter file but noted that "Georgia law prohibits the disclosure of voters' full date of birth, social security number, and driver's license number." *Id.* at 4. He explained that federal law does not require the release of "sensitive information that implicates special privacy concerns" on voter lists. *Id.* (quoting *Project Vote, Inc. v. Kemp*, 208

F. Supp. 3d 1320, 1344 (N.D. Ga. 2016)). Secretary Raffensperger thus declined to provide that sensitive voter information to DOJ. *Id.*; *see also* Compl. ¶¶ 24–25.

III. DOJ sues to obtain Georgia's unredacted voter list.

Just ten days after the Secretary's December letter, DOJ sued the Secretary in the Middle District of Georgia, seeking to compel the production of Georgia's unredacted voter registration list. Compl. at 9, *Raffensperger*, ECF No. 1. Judge Royal promptly ordered DOJ to show cause why the court had jurisdiction under 52 U.S.C. § 20705, which grants jurisdiction to hear CRA claims to the federal court in the district in which the demand was made or the record sought is located. Order to Show Cause at 4–5, *Raffensperger*, ECF No. 9. After briefing, the court found it lacked jurisdiction. Order Dismissing Case at 4–8, *Raffensperger*, ECF No. 49.

DOJ sued here on January 23. Though DOJ frames its demand as part of an effort to ensure that Georgia is complying with its list maintenance obligations under the NVRA and HAVA, Compl. ¶ 9, it fails to assert any claim under either statute. Instead, DOJ asserts a solitary claim under Title III of the Civil Rights Act of 1960, a law that permits DOJ to review certain voting records for the purpose of furthering investigations "concerning infringement or denial of . . . constitutional voting rights." *Kennedy v. Lynd*, 306 F.2d 222, 228 (5th Cir. 1962). Notably, DOJ previously asserted claims under the NVRA and HAVA in parallel complaints that

it brought against multiple states last September.[6] However, in the following 17 lawsuits that it filed against other states seeking the same relief (including this one), DOJ abandoned its NVRA and HAVA claims.[7]

LEGAL STANDARD

A complaint must be dismissed if it "fail[s] to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). At this stage, the Court "must accept as

[6] *See* Compl., *United States v. Bellows*, No. 25-cv-468 (D. Me. Sep. 16, 2025); Compl., *United States v. Oregon*, No. 25-cv-1666 (D. Or. Sep. 16, 2025); Compl., *United States v. Weber*, No. 25-cv-09149 (C.D. Cal. Sep. 25, 2025); Compl., *United States v. Bd. of Elections of N.Y.*, No. 25-cv-1338 (N.D.N.Y. Sep. 25, 2025); Compl., *United States v. Benson*, No. 25-cv-1148 (W.D. Mich. Sep. 25, 2025); Compl., *United States v. Simon*, No. 25-cv-3761 (D. Minn. Sep. 25, 2025); Compl., *United States v. Scanlan*, No. 25-cv-371 (D.N.H. Sep. 25, 2025); Compl., *United States v. Pennsylvania*, No. 25-cv-1481 (W.D. Pa. Sep. 25, 2025).

[7] *See* Compl., *United States v. Albence*, No. 25-cv-01453 (D. Del. Dec. 2, 2025); Compl., *United States v. DeMarinis*, No. 25-cv-03934 (D. Md. Dec. 1, 2025); Compl., *United States v. Amore*, No. 25-cv-00629 (D.R.I. Dec. 2, 2025); Compl., *United States v. Copeland Hanzas*, No. 25-cv-903 (D. Vt. Dec. 2, 2025); Compl., *United States v. Hobbs*, No. 25-cv-6078 (W.D. Wash. Dec. 2, 2025); Compl., *United States v. Oliver,* No. 1:25-cv-01193 (D.N.M. Dec. 2, 2025); Compl., *United States v. Griswold*, No. 25-cv-03967 (D. Colo. Dec. 12, 2025); Compl., *United States v. Nago*, No. 25-cv-00522 (D. Haw. Dec. 12, 2025); Compl., *United States v. Galvin*, No. 25-cv-13816 (D. Mass. Dec. 12, 2025); Compl., *United States v. Aguilar*, No. 25-cv-00728 (D. Nev. Dec. 2, 2025); Compl., *United States v. D.C. Bd. of Elections*, No. 25-cv-04403 (D.D.C. Dec. 18, 2025); Compl., *United States v. Raffensperger*, No. 25-cv-00548 (M.D. Ga. Dec. 18, 2025); Compl., *United States v. Matthews*, No. 25-cv-03398 (C.D. Ill. Dec. 18, 2025); Compl., *United States v. Wis. Elections Comm'n*, No. 25-cv-1036 (W.D. Wis. Dec. 18, 2025); Compl., *United States v. Fontes*, No. 2:26-cv-66 (D. Ariz. Jan. 6, 2026); Compl., *United States v. Thomas*, No. 3:26-cv-21 (D. Conn. Jan. 6, 2026); Compl. *United States v. Beals*, No. 3:26-cv-00042 (E.D. Va. Jan. 16, 2026).

true all of the allegations contained in a complaint" but need not accept the complaint's "legal conclusions." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.*

ARGUMENT

Title III of the CRA cannot justify DOJ's sweeping demand for three independent reasons. First, DOJ has not complied with Title III's basic statutory requirements, namely that it provide Georgia with a proper "basis" and "purpose" for its demand for records. Second, Title III does not preempt Georgia's privacy protections for highly sensitive voter data. And finally, DOJ's attempted collection and maintenance of this data violates the federal Privacy Act. This Court should follow the lead of its sister courts and dismiss the complaint with prejudice. *See Weber*, 2026 WL 118807, at *20; *Oregon*, 2026 WL 318402, at *13.

I. DOJ failed to satisfy Title III's threshold requirements of stating a valid "basis" and "purpose" for its demand.

Governmental agencies are "not afforded unfettered authority to cast about for potential wrongdoing." *CFPB v. Accrediting Council for Indep. Colls. & Schs.* ("*ACICS*"), 854 F.3d 683, 689 (D.C. Cir. 2017) (citation modified). Instead, an agency's authority to demand documents and information "is a creature of statute," *CFPB v. Source for Pub. Data, L.P.*, 903 F.3d 456, 458 (5th Cir. 2018), and so "must comply with statutory requirements," *id.* at 460.

Title III contains a fundamental requirement that DOJ failed to follow in demanding the data it seeks here: it dictates that DOJ's "demand shall contain a statement of the basis *and* the purpose therefor." 52 U.S.C. § 20703 (emphasis added). The use of "and" means that DOJ must provide both. *Oregon*, 2026 WL 318402, at *9; *see also Am. Bankers Ins. Grp. v. United States*, 408 F.3d 1328, 1332 (11th Cir. 2005) ("[T]he word 'and' is presumed to be used in its ordinary sense, that is, conjunctively.").

"The requirement that the Attorney General state their purpose and basis is not merely perfunctory—it is a critical safeguard that ensures the request is legitimately related to the purpose of the statute." *Weber*, 2026 WL 118807, at *9. Indeed, multiple district courts have, in recent months, quashed records demands when DOJ sought to assert statutory authority for investigations "far removed from those claimed purposes granted by Congress." *In re Subpoena No. 25-1431-014*, No. 2:25-mc-00039-MAK, 2025 WL 3252648, at *12, 17 (E.D. Pa. Nov. 21, 2025) (striking DOJ subpoena that "invoke[d] sweeping needs" for information that had "no relevance to the investigation Congress permitted or to the investigation the Department of Justice tells the world it is pursuing"); *see also In re Admin. Subpoena No. 25-1431-019*, 800 F. Supp. 3d 229, 237 (D. Mass. 2025) (quashing subpoena when DOJ "failed to show proper purpose," rejecting claim that "the Government's self-proclaimed say-so" is sufficient to "preclude any form of judicial review").

Title III requires DOJ to state its "factual basis for investigating a violation of a federal statute." *Oregon*, 2026 WL 318402, at *9; *see also Weber*, 2026 WL 118807, at *9 (holding the "basis" requires "specific, articulable facts pointing to the violation of federal law."); *Basis*, *Black's Law Dictionary* (4th ed. 1968) (including definitions for "basis" such as the "groundwork," "support," or "foundation" of something). This requirement ensures that the federal government will not unduly interfere in the states' traditional oversight of elections unless DOJ is able to state a concrete reason to believe that a state has denied the right to vote or otherwise violated federal voting rights law. It also advances public accountability and guards against bad-faith investigations by requiring DOJ to articulate a factual basis *why* it seeks the information it demands. *See ACICS*, 854 F.3d at 691 (concluding that mere citation to statutory provisions in agency's statement failed to sufficiently provide "statutory basis for the Bureau's investigation," "especially considering the Bureau's failure to adequately state 'the specific conduct under investigation'").

Similarly, Title III's "purpose" requirement ensures that the federal government's intentions for the information sought, once acquired, are proper, and allows judicial evaluation of the demand. *See Purpose*, *Black's Law Dictionary* (4th ed. 1968) (defining "purpose" to include "an end, intention, or aim, object, plan, project"); *cf. ACICS*, 854 F.3d at 689–90 ("Because the validity of a CID is measured

by the purposes stated in the notification of purpose, the adequacy of the notification of purpose is an important statutory requirement." (citation omitted)).

To understand the CRA's basis and purpose requirements, the Court must look to "statutory context, structure, history, and purpose." *Abramski v. United States*, 573 U.S. 169, 179 (2014) (quotation omitted); *see also Home Depot U.S.A., Inc. v. Jackson*, 587 U.S. 435, 441 (2019) ("It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." (quoting *Davis v. Mich. Dep't of Treasury*, 489 U.S. 803, 809 (1989))). Accordingly, the terms "basis" and "purpose" must be read in the specific context of the Civil Rights Act of 1960, a law that serves the critical but narrow function of ensuring that the voting rights of all citizens receive the protections due under the U.S. Constitution. *See United States v. Ward*, 349 F.2d 795, 804 (5th Cir.) (noting that the purpose of the CRA was to ensure voter laws were enforced "in accordance with constitutional demands"), *modified on reh'g*, 352 F.2d 329 (5th Cir. 1965); *United States v. Alabama*, 192 F. Supp. 677, 682 (M.D. Ala. 1961) (noting that the Act was "was adopted to protect the right to vote" when voters faced "discriminatory acts and practices, which acts and practices clearly violate the Constitution and laws of the United States"), *aff'd*, 304 F.2d 583 (5th Cir. 1962), *aff'd sub nom. Alabama v. United States*, 371 U.S. 37 (1962); H.R. Rep. No. 86-956, at 3 (1959) (finding that while "some progress" has been made

since the Civil Rights Act of 1957, there was a "need for additional legislation to implement the enforcement of civil rights").

The principal authority that DOJ cites in its Complaint confirms that DOJ has previously understood and complied with this statutory requirement. *See Lynd*, 306 F.2d at 229 n.6. In *Lynd*, the court recognized that the "basis" of DOJ's demand was "information in the possession of the Attorney General tending to show that distinctions on the basis of race or color have been made with respect to registration and voting within your jurisdiction," and the "purpose" was "to examine the aforesaid records in order to ascertain whether or not violations of Federal law in regard to registration and voting have occurred." *Id.* (citation modified). Other Title III cases from that period likewise contained a statement of both a "basis" and "purpose" for DOJ's demand. *E.g.*, *Kennedy v. Bruce*, 298 F.2d 860, 861 (5th Cir. 1962). But here, DOJ's demand was deficient on both fronts.

a. DOJ did not state any "basis" for its demand.

Nowhere in its correspondence with Secretary Raffensperger did DOJ state any factual basis for its investigation of Georgia. *See generally* Ex. 1; Ex. 2.[8] Nor does any basis for its demand appear in the Complaint. DOJ's bare assertion that its

[8] The Court may consider this correspondence at the motion to dismiss stage because DOJ "refers to" the letters "in the complaint" and the letters "are central to [DOJ's] claim." *Brooks v. Blue Cross & Blue Shield of Fla., Inc.*, 116 F.3d 1364, 1369 (11th Cir. 1997).

"written demand 'contain[ed] a statement of the basis and the purpose therefor,'" Compl. ¶ 27 (quoting 52 U.S.C. § 20703), is a textbook example of a legal conclusion, unsupported by any factual allegation, and cannot defeat a motion to dismiss. *See Hammonds v. Gray Transp., Inc.*, 371 F. Supp. 3d 1340, 1347 (M.D. Ga. 2019) ("[T]he Court need not accept as true '[t]hreadbare recitals of the elements of a cause of action' or 'conclusory statements.'" (quoting *Iqbal*, 556 U.S. at 678)); *see also Oregon*, 2026 WL 318402, at *9 (finding DOJ demand for Oregon's unredacted voter file deficient in same way); *Weber*, 2026 WL 118807, at *9 (same).

DOJ's omission of any factual basis for its demand is striking. DOJ has made near carbon copy demands to nearly every other state in the country and has sued 24 of those states and the District of Columbia with complaints that contain similar allegations. *See supra* Background §§ II, III. Those parallel demands and suits undercut any notion that DOJ has any factual basis for investigating Georgia in particular, despite the clear statutory language requiring it to articulate the basis for its demand. *See* 52 U.S.C. § 20703 ("This demand shall contain a statement of the basis *and* the purpose therefor." (emphasis added)). That deficiency warrants dismissal.

b. DOJ did not state a proper "purpose" for its demand.

DOJ's claim must also be dismissed because it failed to articulate a proper purpose, itself an independent requirement of Title III. Congress enacted the record

retention provisions of Title III "to secure a more effective protection of the right to vote," *Alabama ex rel. Gallion v. Rogers*, 187 F. Supp. 848, 853 (M.D. Ala. 1960), *aff'd sub nom. Dinkens v. Att'y Gen. of U.S.*, 285 F.2d 430 (5th Cir. 1961); *see also* H.R. Rep. No. 86-956, at 7 (explaining Congress enacted Title III to aid DOJ "during any investigation it may conduct on complaints of a denial to vote"). DOJ *admits* that it is *not* seeking Georgia's statewide voter registration list for that reason. Rather, DOJ seeks to investigate "Georgia's compliance with federal election law, particularly the NVRA and HAVA." Compl. ¶ 9. That purpose, however, is beyond the scope of the CRA.

As the court in Oregon concluded after surveying Title III's "statutory and historical context" and the relevant case law, DOJ's "purpose" in issuing a demand under the CRA "must relate to . . . investigating violations of individuals' voting rights." *Oregon*, 2026 WL 318402, at *10. Here, DOJ's "stated purpose was to investigate list maintenance procedures" and thus "lack[s] any reference or relation to the purposes for which Title III was enacted." *Id.* Simply put, "Title III was not passed as a tool for NVRA compliance." *Weber*, 2026 WL 118807, at *9.

Further, even if ascertaining Georgia's compliance with the NVRA and HAVA were permissible grounds for invoking Title III, "DOJ states no reason why an *unredacted* version of [Georgia's] voter list is necessary." *Id.* (emphasis added); *see also Oregon*, 2026 WL 318402, at *10 n.4 (similar). Both the NVRA and HAVA

grant states broad discretion in list maintenance: State efforts under the NVRA need only be "reasonable," 52 U.S.C. § 20507(a)(4), and HAVA explicitly commits "specific choices . . . to the discretion of the State," *id.* § 21085. Secretary Raffensperger offered DOJ copiously detailed descriptions of the state's extensive voter roll maintenance, *see generally* Ex. 3, and also provided DOJ a copy of Georgia's voter file with only the most sensitive voter information redacted, *see id.* at 4. DOJ never explained why that is insufficient—or why it requires protected information about voters to ascertain Georgia's compliance with its list maintenance obligations. Instead, DOJ rushed to sue.

II. Title III does not pre-empt Georgia's privacy protections.

Georgia law designates as "confidential" and strictly restricts the disclosure of certain categories of information it collects from voters during the registration process, including the day and month of birth, and the driver's license and social security numbers attached to each voter record. O.C.G.A. § 21-2-225(b). Thus, for DOJ to access this information, it must show that Title III preempts Georgia's privacy protections. It does not.

Because Title III contains no *express* preemption provision, *see* 52 U.S.C. § 20703, DOJ must show that Georgia's privacy protections *impliedly* conflict with Title III, *see generally Irving v. Mazda Motor Corp.*, 136 F.3d 764, 767 (11th Cir. 1998) (discussing express versus implied preemption). The Eleventh Circuit and the

Supreme Court have made clear that courts must "presume that Congress does not cavalierly pre-empt state law." *Nat'l Ass'n of State Util. Consumer Advocs. v. FCC*, 457 F.3d 1238, 1252 (11th Cir.) (citation modified) (quoting *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996)), *opinion modified on denial of reh'g*, 468 F.3d 1272 (11th Cir. 2006). It is therefore "a reliable canon of interpretation . . . to presume that a federal statute does not preempt state law." Antonin Scalia & Brian A. Garner, *Reading Law* 290 (2012). Although the presumption against preemption "does not hold when Congress acts under the Elections Clause, which empowers Congress to make or alter state elections regulations," *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 51–52 (1st Cir. 2024) (citation modified), or when Congress otherwise regulates the mechanics of the voting process, Title III addresses only the retention, maintenance, and disclosure of records; it does not target any state election regulations or practices, nor does it implicate any voting requirements. Accordingly, the preemption analysis must "start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress." *Gallardo ex rel. Vassallo v. Dudek*, 963 F.3d 1167, 1175 (11th Cir. 2020) (quoting *Medtronic*, 518 U.S. at 485).

Title III does not evince a "clear and manifest purpose" that Congress intended to preempt state privacy laws. To the contrary, in the principal case DOJ cites in its Complaint, the Fifth Circuit explained that Title III is intended to reach *only* "public

records which ought ordinarily to be open to legitimate reasonable inspection," *not* "confidential, private papers and effects." *Lynd*, 306 F.2d at 231. The information that DOJ seeks here is not of the type ordinarily "open to legitimate reasonable inspection," *id.*; instead, DOJ seeks sensitive information that enjoys strong privacy protection under both federal and state law, *see Weber*, 2026 WL 118807, at *9 (recognizing that this "sensitive and identifying information is private and not open to inspection by federal officials"). In fact, since "driver's license numbers and partial social security numbers were not required for voter registration until the passage of HAVA in 2002, . . . Congress could not have conceived for this highly sensitive information to be at the DOJ's disposal through the passage of Title III four decades prior." *Id.* DOJ thus fails to "explain how [Georgia] law's prohibition on disclosure of certain sensitive information conflicts with the purposes of Title III." *Oregon*, 2026 WL 318402, at *12.

Further confirmation that Title III does not preempt Georgia's privacy protections may be found in the judicial consensus that a similar disclosure requirement in the NVRA likewise does *not* preempt state laws protecting the same highly sensitive categories of information that DOJ seeks here. Both Title III and the NVRA require disclosure of certain records relating to voter registration, and they employ similar language to do so. *Compare* 52 U.S.C. § 20703 (Title III: covered voting records held by a state election official "shall, upon demand in writing by the

Attorney General . . . be made available for inspection"), *with* 52 U.S.C. § 20507(i) (NVRA: requiring that states "shall make [covered voting records] available for public inspection"). Yet multiple courts—including in this district—have held that the NVRA does *not* prohibit States from restricting access to precisely the information that DOJ seeks. *See Project Vote, Inc. v. Kemp*, 208 F. Supp. 3d 1320, 1344 (N.D. Ga. 2016) (holding the NVRA "does not require the disclosure of sensitive information that implicates special privacy concerns"); *see also, e.g.*, *Voter Reference Found., LLC v. Torrez*, 160 F.4th 1068, 1083 n.14 (10th Cir. 2025) ("To the extent the State wishes to redact appropriate personal information before providing the voter data, the NVRA does not prohibit that limitation."); *Bellows*, 92 F.4th at 56 ("[N]othing in the text of the NVRA prohibits the appropriate redaction of uniquely or highly sensitive personal information in the Voter File." (citing cases)); *Pub. Int. Legal Found., Inc. v. N.C. State Bd. of Elections*, 996 F.3d 257, 268 (4th Cir. 2021) (recognizing the NVRA permits redactions to "protect sensitive information").

This conclusion is reinforced by analyzing the choices Congress made when it enacted the NVRA and HAVA. Recall that DOJ's stated purpose for its demand for sensitive voter information is purportedly to evaluate Georgia's compliance with its list maintenance obligations under those statutes. Compl. ¶ 9. But if Congress had thought that it was necessary or desirable for DOJ to have access to a database

containing highly sensitive information about every voter in a state so that it would be able to ensure that the state was complying with its list maintenance obligations, it would have done so in *the NVRA and HAVA themselves*. Congress did not.

In fact, Congress created a *different* mechanism meant to ascertain states' compliance with list maintenance obligations: the NVRA inspection provision, located at 52 U.S.C. § 20507(i). Congress "envisioned" this provision to allow for "critical scrutiny and public audits of voter data"—but nonetheless did not prevent states from redacting sensitive voter data. *Voter Reference Found.*, 160 F.4th at 1082 & 1083 n.14. As for HAVA, it contains no disclosure provision at all, and instead explicitly confirms that voter registration lists must be "maintained" and "administered at the State level"—not by the federal government. 52 U.S.C. § 21083(a)(1)(A). In short, it simply makes no sense to suggest that Congress intended Title III to preempt state privacy laws protecting voter data so that the federal government can assess compliance with voter list maintenance under the NVRA and HAVA—both statutes reflect a congressional judgment *not* to preempt such laws.

III. DOJ has failed to comply with the Privacy Act, which independently requires dismissal.

The Privacy Act, codified at 5 U.S.C. § 552a *et seq.*, "offers substantial protection[] regarding governmental use and retention of identifiable personal information." *League of Women Voters v. U.S. Dep't of Homeland Sec.*, No. 25-cv-

3501, 2025 WL 3198970, at *1 (D.D.C. Nov. 17, 2025). It does so in part by "adopt[ing] procedural safeguards when the records maintained by a federal agency, *i.e.*, a 'system of records,' are changed or used in a new way." *Id.* at *2 (quoting 5 U.S.C. § 552a(a)(5), (e)). In its rush to sweep up the sensitive information of every registered voter in Georgia, DOJ overlooked the Privacy Act's basic procedural requirements. As a result, the Privacy Act independently prohibits DOJ from obtaining Georgia's statewide voter registration list.

The Privacy Act imposes certain obligations on any agency that "maintains" a "system of records." 5 U.S.C. § 552a(e). A "system of records" is defined as "a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual." *Id.* § 552a(a)(5); *see also id.* § 552a(a)(4). Georgia's voter list, which contains the names of all registered voters in the state as well as substantial identifying information, plainly qualifies as a "system of records" under the Privacy Act. *Schwier v. Cox*, 412 F. Supp. 2d 1266, 1271–72 (N.D. Ga. 2005) (holding Georgia's voter list constitutes a "system of records" under the Privacy Act), *aff'd*, 439 F.3d 1285 (11th Cir. 2006). The term "maintain" is defined to include "maintain, collect, use, or disseminate." 5 U.S.C. § 552a(a)(3). Accordingly, if DOJ were to "collect," "use," or "maintain" Georgia's voter list, the Privacy Act's obligations are triggered. *See id.* § 552a(e)(4); *see also*

Weber, 2026 WL 118807, at *17 (noting that DOJ's request for voting records "includes a litany of personal and sensitive information that is governed by the Privacy Act").

Most relevant here, the Privacy Act requires that "when an agency 'establish[es] or revis[es]' any 'system of records,' it must 'publish in the Federal Register . . . a notice of the existence and character of the system of records,' *i.e.*, a System of Records Notice (SORN)." *League of Women Voters*, 2025 WL 3198970, at *2 (alterations in original) (quoting 5 U.S.C. § 552a(e)(4)). A SORN must include, among other things, the name and location of the system, the categories of individuals on whom records are maintained in the system, the categories of records maintained in the system, and all "routine uses" to which the system can be put as well as the "categories of users and the purpose of such use." *Id.*

Though DOJ's Complaint here is bereft of any allegations that an appropriate SORN has been published, DOJ alleged in parallel litigation in other states that a SORN they identified as "JUSTICE/CRT – 001," the "Central Civil Rights Division Index File and Associated Records," supplies the requisite authority. *E.g.*, Compl. ¶ 23, *Oliver*, No. 1:25-cv-1193 (D.N.M. Dec. 2, 2025), ECF No. 1. But that SORN merely notifies the public that the categories of individuals covered by the system may include "[s]ubjects of investigations, victims, [and] potential witnesses." *Privacy Act of 1974; System of Records*, 68 Fed. Reg. 47610, 47611 (Aug. 11, 2003).

It "does nothing to put a member of the American public on notice that specifically, their voter registration data is going to be collected on an unprecedented level." *Weber*, 2026 WL 118807, at *18. Nor does any other SORN.

Congress enacted the Privacy Act's safeguards to "control . . . the unbridled use of highly sophisticated and centralized information collecting technology." *Savarese v. U.S. Dep't of Health, Educ. & Welfare*, 479 F. Supp. 304, 308 (N.D. Ga. 1979), *aff'd sub nom. Savarese v. Harris*, 620 F.2d 298 (5th Cir. 1980). "The capacity of computers and related systems to collect and distribute great masses of personal information clearly poses a threat that the Privacy Act seeks to remedy." *Id.* To that end, the publication requirement "permit[s] an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by federal agencies" and to "ensure adequate safeguards are provided to prevent misuse of such information." *League of Women Voters*, 2025 WL 3198970, at *2 (citation modified).

Consequently, if DOJ wishes to compile a federal database of registered voters, the Privacy Act requires (at a minimum) that DOJ give the public adequate notice of its intention to do so by publishing a SORN that accurately discloses the system of records it intends to create and the uses to which it will put that information. *See Pippinger v. Rubin*, 129 F.3d 519, 527 (10th Cir. 1997) (noting the Privacy Act "requir[es] publication of the establishment and existence of a

government-maintained 'system of records'" and that agencies "publish in the Federal Register notice of revisions in the *character* of existing systems of records"); *see also* 5 U.S.C. § 552a(e)(4); *id.* § 552a(e)(11) (requiring 30-day notice "of any new use or intended use of the information in the system," to "provide an opportunity for interested persons to submit written data, views, or arguments to the agency").

Finally, there is no impediment to the Court dismissing the Complaint based on DOJ's failure to comply with the Privacy Act. Even if the Court construes this argument as an affirmative defense, "a complaint may be dismissed under Rule 12(b)(6) when its own allegations indicate the existence of an affirmative defense, so long as the defense clearly appears on the face of the complaint." *Davidson v. Maraj*, 609 F. App'x 994, 997 (11th Cir. 2015) (quoting *Quiller v. Barclays Am./Credit, Inc.*, 727 F.2d 1067, 1069 (11th Cir. 1984)). Here, the Complaint clearly alleges DOJ's intention to create a system of records that requires compliance with the Privacy Act. Its failure to comply with that Act thus warrants dismissal.

CONCLUSION

For the foregoing reasons, the Court should dismiss the Complaint with prejudice under Rule 12(b)(6) for failure to state a claim.

Dated: February 13, 2026

/s/ Uzoma N. Nkwonta

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1D, NDGa, the undersigned counsel hereby certifies that the foregoing document complies with the font and point selections approved by the Court in Local Rule 5.1C, NDGa. This document was prepared on a computer using Times New Roman font (14 point).

This 13th day of February, 2026.

/s/ Uzoma N. Nkwonta
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