

No. 26-2064

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellant,

- v. -

STEPHANIE THOMAS,
Defendant-Appellee,

CLAIRE EWING, COMMON CAUSE, SEIU DISTRICT 1199NE,
CONNECTICUT ALLIANCE FOR RETIRED AMERICANS, CONNECTICUT
CITIZEN ACTION GROUP, BETTE MARAFINO,
Intervenor-Defendants-Appellees

ON APPEAL FROM THE U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICUS CURIAE*
LIBERTY LEGAL FOUNDATION IN SUPPORT OF
PLAINTIFF-APPELLANT AND REVERSAL**

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**LIBERT LEGAL FOUNDATION’S MOTION FOR
LEAVE TO FILE *AMICUS CURIAE* BRIEF**

Pursuant to the Federal Rules of Appellate Procedure 29(a)(2)-(3), Liberty Legal Foundation (“Liberty Legal” and “*amicus*”) respectfully moves for leave to file the accompanying *amicus curiae* brief in support of Plaintiff-Appellant United States of America.¹

Counsel for Plaintiff-Appellant; Intervenors-Defendants-Appellees League of Women Voters of New York State, National Association for the Advancement of Colored People and National Association for the Advancement of Colored People New York State Conference have consented to the filing of the *amicus* brief. Defendant-Appellee Stephanie Thomas takes no position to the filing of the proposed *amicus* brief. Liberty Legal’s proposed brief is attached to this motion.

Liberty Legal Foundation is a Delaware corporation exempt from income tax under 26 U.S.C. § 501(c)(3). It is a non-profit public interest organization whose mission is to promote the rule of law, protect due process, and defend equal protection under the Constitution. To that end, Liberty Legal Foundation has

¹ No party’s counsel authored the proposed brief in whole or in part. No party or party’s counsel contributed money intended to fund preparation or submission of the proposed brief. No person other than Project Civica, its members, or its counsel contributed money intended to fund preparation or submission of the proposed brief.

represented parties and submitted amicus briefs in courts across the country in cases concerning a variety of issues including constitutional questions and election law.

This case presents legal questions central to the administration of federal election law and to Liberty Legal’s ongoing election-related work. Liberty Legal Foundation and its Connecticut supporters are vitally concerned with the outcome because it affects the integrity and security of federal elections.

Liberty Legal Foundation’s perspective will aid the Court’s consideration of the issues raised in this appeal. The proposed brief will assist the Court by addressing considerations that may not be fully developed by the parties. Liberty Legal Foundation’s proposed amicus brief makes five principal contributions to the Court’s consideration of this case:

- * **Title III’s coverage is broad and categorical:** it applies to “all records and papers” in an election officer’s possession that relate to registration. 52 U.S.C. §§ 20701–20705.
- * **No self-created-record exception exists** in the language Congress enacted. The district court’s “created by the State” distinction adds a limitation that § 20701 does not contain.
- * **No static-record exception exists** either. A statewide voter registration list’s (“SVRL”) active maintenance does not make it cease to be a record relating to voter registration.
- * **The claimed § 20702 conflict is mistaken.** “Willfully steals, destroys, conceals, mutilates, or alters” addresses intentional wrongdoing that compromises a record’s integrity or availability—not lawful, routine, and federally required list administration.

*** National Voter Registration Act (“NVRA”) and Help America Vote Act (“HAVA”) confirm the point.** HAVA requires a centralized, interactive statewide voter list, and the NVRA requires active list maintenance. NVRA, Pub. L. No. 103-31, 107 Stat. 77 (codified as amended at 52 U.S.C. 20501–20511); HAVA, Pub. L. No. 107-252, 116 Stat. 1666 (codified at 52 U.S.C. 20901–21145). Those statutes do not diminish Title III oversight; they identify the modern registration records to which Title III applies. The district court’s construction instead makes federal inspection unavailable precisely because the State maintains its registration system in the centralized, dynamic form federal law requires.

Public voter file data can identify that a registration or voter history entry changed, was removed, or was recoded. But it generally cannot establish why the change occurred, who authorized it, whether the State verified the individual’s eligibility, whether a duplicate determination was accurate, or whether officials followed procedures required by federal election law. Those answers are found in the complete, unredacted SVRL.

The SVRL is not merely a flattened spreadsheet or a static export of rows and columns. A spreadsheet-style extract may omit the relational and operational features that give the official system meaning. The actual database may include unique record identifiers; primary and foreign keys; table relationships; field definitions and data dictionaries; coding conventions; delimiters; status codes; normalization rules; validation rules; data entry controls; import and export specifications; county-to-state synchronization processes; matching and deduplication logic; and audit or transaction histories.

Those features matter because they determine how data should be interpreted. For example, an apparent duplicate may be two records tied to one person through a unique identifier, two different individuals with similar names, a temporary duplicate created during synchronization, or a record awaiting resolution under the state's matching rules. Likewise, a status change may reflect an ordinary address update, a merge, a cancellation, a correction, a verification failure, a death-record match, or another administrative action. A flattened spreadsheet may show that a record changed; the underlying voter system and database records explain **how, when, why, and by whom** it changed.

Accordingly, references to the SVRL, statewide voter registration list, statewide voter database, or statewide voter registration system should be understood to encompass, as context requires, not only a current list of registrants but also the structured electronic architecture and administrative records necessary to interpret, maintain, audit, and verify the official statewide voter registration record.

The district court expresses concern that if a continuously updated statewide voter registration database were considered a record covered by § 20701, election officials would effectively be required to preserve a new static copy of the database after every modification. Respectfully, that concern appears to present a false choice.

Government agencies routinely maintain dynamic databases while complying with record-retention laws. Compliance does not require freezing an administrative database after every transaction. Instead, agencies preserve records through established information governance practices such as audit trails, transaction logs, backup systems, retention schedules, and other administrative records that document changes over time.

Congress understood voter registration systems are dynamic. When it enacted HAVA, it required each state to maintain a “single, uniform, official, centralized, interactive computerized statewide voter registration list.” The term “interactive” necessarily contemplates a system that is continuously updated as voters register, move, change party affiliation, or become ineligible. The fact that the database changes over time does not logically place it outside the category of records Congress expected election officials to preserve.

Liberty Legal Foundation’s proposed *amicus* brief does not duplicate the United States’ opening brief. Although both seek reversal and share the overarching position that Connecticut’s SVRL falls within Title III of the Civil Rights Act of 1960, the *amicus* brief supplies an independent, focused statutory and constitutional analysis directed at the district court’s dispositive rationale -- not a repetition of the Government’s broader appellate presentation.

The United States’ brief presents the full party case: it addresses the sufficiency of DOJ’s written demand, the permissible purpose of a Title III request, allegations of pretext, the major-questions doctrine, the mechanism for electronic production, several federal privacy statutes, and federal preemption of contrary state privacy law. By contrast, the *amicus* brief is deliberately confined to the threshold statutory-construction issue on which the district court actually dismissed the action: whether Connecticut’s official SVRL is a “record or paper” within 52 U.S.C. §§ 20701 and 20703.

The *amicus* therefore provides the Court a narrower and complementary analysis of the district court’s two central errors. The *amicus* also offers a distinct structural account of the relationship among Title III, the NVRA, and HAVA. Its point is not merely that these statutes may coexist; it is that the district court’s interpretation perversely makes Title III least effective as to the centralized, interactive statewide list that HAVA affirmatively requires and that the NVRA requires States to maintain accurately and currently. The brief accordingly shows that Congress could not sensibly have required an electronic, interactive, statewide registration system while silently excluding that very system from Title III’s preservation and inspection framework.

Finally, the *amicus* supplies a focused constitutional perspective under the Elections Clause. It explains that voter registration systems and the records needed

to administer federal elections are part of the federally regulable “Manner” of federal elections, and that Congress’s enactment of Title III, the NVRA, and HAVA displaces contrary state limitations to the extent necessary to make federal oversight meaningful. This constitutional framing is distinct from the United States’ more extensive arguments concerning statutory preemption and privacy law objections.

Accordingly, the *amicus* brief would aid the Court by offering a concentrated, independent account of why the district court’s dismissal cannot stand. It reinforces the requested disposition while avoiding duplication of the United States’ arguments concerning the adequacy of the DOJ’s demand letter, asserted improper purpose, electronic-production mechanics, privacy statutes, and preemption of Connecticut confidentiality law.

This motion is timely under Federal Rule of Appellate Procedure 29(a)(6). Liberty Legal files this motion within the period permitted for an *amicus curiae* supporting an appellant. Leave to file was not opposed although Secretary Thomas declined to consent, taking “no position” without any explanation. There has been no opposition to the filing of the brief.

WHEREFORE, Liberty Legal Foundation respectfully requests that this Court grant this motion and accept for filing the accompanying *amicus curiae* brief in support of Plaintiff-Appellant United States of America and reversal.

Liberty Legal Foundation's *amicus* brief is filed in compliance with the requirements of Fed. R. App. P. 32.

Dated: September 28, 2026

Respectfully submitted,

/s/ Stacey Bucci

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CERTIFICATE OF COMPLIANCE

with type volume limit, typeface requirements and type-style requirements

This motion complies with type-volume limit of limitation of the Federal Rule of Appellate Procedure 27(d)(2) because it contains 1,522 words.

In accordance with Federal Rule of Appellate Procedure 27(d)(1)(E), this motion compliance with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Microsoft 365 in a 14-point Time New Roman font.

/s/ Stacey Bucci
STACEY BUCCI

CERTIFICATE OF SERVICE

I, Stacey Bucci, hereby certify that on September 28, 2026, the foregoing document was filed electronically using the Court's ACMS system.

I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the appellate ACMS system.

/s/ Stacey Bucci
STACEY BUCCI

**DECLARATION OF STACEY BUCCI IN SUPPORT OF MOTION OF
LIBERTY LEGAL FOUNDATION TO FILE *AMICUS CURIAE* BRIEF IN
SUPPORT OF APPELLANT-PLAINTIFF AND FOR REVERSAL**

1. I, STACEY BUCCI, under penalty of perjury, hereby declares as follows:
2. I am an attorney admitted to the bar of the United States Court of Appeals for the Second Circuit and do business as BUCCI LAW. My business address is 595 New Loudon Road, Suite 215, Latham, New York 12110.
3. I am also General Counsel and Chief Legal Officer of Liberty Legal Foundation. The business addresses of Liberty Legal Foundation are 8 The Green, Suite A, Dover, Delaware 19901 and P.O. Box 443, Bennington, Vermont 05201.
4. I am over 18 years of age and am not a party to the above-referenced matter.
5. I submit this Declaration as a supporting document attached to Liberty Legal Foundation's Motion for Leave to File *Amicus Curiae* Brief in Support of Appellant-Plaintiff and for Reversal.
6. On August 13, 2026, I requested consent from counsel for Plaintiff-Appellant United States of America to the filing of the proposed *amicus* brief. Counsel for said party consented on August 13, 2026 by email.
7. On August 13, 2026, I requested consent from counsel for Intervenor-Defendants-Appellees, Bette Marafino, Connecticut Alliance for Retired Americans, Connecticut Citizen Action Group, and SEIU District 1199NE, to the filing of the

proposed *amicus* brief. Counsel for said parties consented on August 13, 2026 by email.

8. On August 13, 2026, I requested consent from counsel for Intervenor-Defendants-Appellees, Common Cause and Claire Ewing, to the filing of the proposed *amicus* brief. Counsel for said parties consented on August 19, 2026 by email.

9. On August 13, 2026, I requested consent by email from counsel for Defendant-Appellee, Stephanie Thomas, to the filing of the proposed *amicus* brief.

9. On September 8, 2026, I again requested consent by email from counsel for Defendant-Appellee, Stephanie Thomas, to the filing of the proposed *amicus* brief.

10. On September 9, 2026, Michael Rondon, counsel for said party, informed me solely that “[t]he Secretary takes no position” by email. No other information or explanation was provided.

11. On September 11, 2026, I sent a letter requesting consent along with a draft proposed *amicus* brief to counsel for Secretary Thomas. As of the date of this declaration, I have received no response to the last communication.

12. Because I did not receive unanimous consent to the filing of the *amicus curiae* brief, the filing of the Motion for Leave to File is necessary pursuant to FRAP 29(a).

13. No opposition has been made to the filing of the *amicus* brief.

I declare under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing is true and correct.

Executed on: September 28, 2026

/s/ Stacey Bucci

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DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), Liberty Legal Foundation states that it is a non-profit legal organization that has issued no shares to the public, and does not have any parent company, subsidiary, or affiliate that has issued shares to the public. Because Liberty Legal Foundation has no stock nor issued any stock, no corporation owns 10% or greater ownership interest.

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INTEREST OF *AMICUS CURIAE*¹

Liberty Legal Foundation (“Liberty Legal” and “Amicus”) is a Section 501(c)(3) nonprofit public interest legal organization devoted to the rule of law, due process, and equal protection under the Constitution. To that end, Liberty Legal Foundation has represented parties and submitted amicus briefs across the country in cases concerning a variety of issues including constitutional questions and election law.

This case presents legal questions central to the administration of federal election law and to Liberty Legal’s ongoing election-related work. Liberty Legal and its Connecticut supporters are deeply concerned because the outcome affects the integrity and security of federal elections in the State. Liberty Legal has substantial institutional interests and submits this brief solely to aid the Court as a nonpartisan organization that neither supports nor opposes any party or candidate.

INTRODUCTION

The district court’s order (“order”) resolved the underlying case on a single threshold statutory construction issue: Connecticut’s statewide voter registration list (“SVRL”) is not a record within the scope of Title III of the Civil Rights Act of

¹ No party’s counsel authored this brief in whole or in part, and no one other than *Amicus* contributed money intended to fund preparing or submitting the brief.

1960², 52 U.S.C. §§ 20701–20703. *United States v. Thomas*, No. 3:26-cv-00021 (KAD), ECF No. 109 (“Order”) (D. Conn. July 17, 2026). On that basis, the district court granted the Common Cause intervenors’ motion to dismiss and held that the United States could not compel production of the requested unredacted SVRL.

The order relied particularly on *United States v. Benson*, a Sixth Circuit decision involving Michigan’s qualified voter file, and cited similar 2026 district court decisions reaching the same conclusion regarding SVRLs. *United States v. Benson*, 179 F.4th 470 (6th Cir. 2026). The district court’s reasoning rested on two related but erroneous propositions: an official SVRL is outside Title III because election officials create and maintain it, and the list’s ongoing updates render it incapable of being retained and preserved under Title III. However, neither proposition is consistent with the statutory text.

Title III requires election officers to retain and preserve for twenty-two months after a federal election “all records and papers which come into [their] possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election.” § 20701. Upon a written demand that states the basis and purpose for inspection, those records must be made available to the Attorney General for inspection, reproduction, and copying. *Id.* § 20703.

² Pub. L. No. 86-449, title III, 74 Stat. 86, 88–89 (codified at § 20701–20706). All references to § in this brief are to 52 U.S.C.

Connecticut's SVRL is plainly a record relating to registration. It is the official statewide record of the registration information of Connecticut's voters. Connecticut maintains the SVRL through its Centralized Voter Registration System ("CVRS"), a centralized statewide system into which local election authorities enter and update voter registration information that has come into their possession. The SVRL includes voters' names, residences, mailing addresses, dates of birth, party affiliations, dates of registration, changes to registration information, identifying information, and voting history information. Order at 8-9. That official record is not peripheral to registration. It is the official repository of registration administration.

The district court nevertheless treated the SVRL as categorically excluded because it is "created by the state," rather than received in finished form from a third party. Order at 9-11. But Title III does not limit its scope to documents physically handed to an election official by an applicant or other outsider. Congress required preservation of "all records and papers" that come into the official's possession and relate to registration. § 20701. It did not write an exception for records that election officials compile, aggregate, organize, generate, maintain, or use in administering the registration process.

The distinction is particularly untenable on the facts set out in the order. Connecticut's SVRL receives voter registration information and updates from local authorities in the State's 169 municipalities. Order at 8-10. The Secretary does not

create voter registration information *ex nihilo*. The Secretary receives, holds, controls, and uses registration information in the centralized statewide system and maintains the State’s official registration list from that information. The ensuing SVRL therefore comes into the Secretary’s possession in the ordinary and statutory sense.

The SVRL’s continuous maintenance also does not remove it from Title III. § 20701 covers “all records and papers” relating to registration; it does not distinguish between paper and electronic records, between static and dynamic records, or between records maintained in discrete files and records maintained in an interactive statewide database. Nothing in Title III provides that a registration record loses statutory protection because election officials update it in the ordinary course of their duties.

The district court treated § 20702 as creating an irreconcilable conflict. That section imposes criminal penalties on a person who “willfully steals, destroys, conceals, mutilates, or alters” a record required to be retained and preserved under § 20701. The court reasoned that, if the SVRL were covered, the ongoing changes that the National Voter Registration Act (“NVRA”)³ and Help America Vote Act (“HAVA”)⁴ require would be criminal alterations. Order at 11-12. That conclusion

³ Pub. L. No. 103-31, 107 Stat. 77 (codified as amended at § 20501–20511).

⁴ Pub. L. No. 107-252, 116 Stat. 1666 (codified at § 20901–21145).

reads “willfully” out of the statute and ignores the accompanying terms -- “steals,” “destroys,” “conceals,” and “mutilates” -- which identify the kind of misconduct § 20702 addresses: intentional interference with the integrity or availability of election records. Lawful changes made in the ordinary administration of a voter registration system are not theft, destruction, concealment, mutilation, or prohibited alteration.

Congress enacted the NVRA and HAVA against the backdrop of Title III. The NVRA requires states to undertake reasonable voter list maintenance and to retain records concerning implementation of programs to ensure the accuracy and currency of official voter lists. § 20507(a)(4), (i)(1). HAVA requires each state to maintain a “single, uniform, official, centralized, interactive computerized statewide voter registration list.” *Id.* § 21083(a)(1)(A). The natural reading is that Title III applies to registration records as states are federally required to maintain them: centralized, electronic, interactive, and current. The court’s contrary construction makes Title III least effective with respect to the official statewide registration systems whose accuracy and lawful administration federal law most directly regulates.

The district court’s misinterpretation of Title III and its interaction with NVRA and HAVA threatens major public interests in federal election law enforcement. The Court should reverse and hold that Connecticut’s SVRL falls within the scope of Title III.

ARGUMENT

The order rests on a narrow and erroneous statutory reading of Title III that is deficient in text, structure, precedent, and application. In its view, Title III applies to records and papers the officer receives (such as voter registration applications and poll tax receipts), but not to a statewide voter list created and maintained by the state pursuant to NVRA/HAVA.

Historic Title III appellate authority, especially *United States v. State of Mississippi*, 380 U.S. 128 (1965), should set the terms of the analysis. The United States Supreme Court in *Mississippi* described Title III as a statute requiring retention of records made in connection with voter registration applications and addressed a state's effort to eliminate such records; it is a materially more appropriate historical anchor than the recent Trump-era cases cited by the district court.

The order improperly adds two exclusions to Title III's broad text: one for records assembled or generated by the government, and another for records that must be updated. Neither exclusion appears in § 20701; neither follows from § 20702; and both undermine Title III's central function of enabling federal access to records bearing directly on registration and voting administration.

I. THE ORDER ARTIFICIALLY CONSTRAINS TITLE III SCOPE.

A. The SVRL is a Record Directly Relating to Voter Registration.

Title III requires election officials to retain, preserve, and, upon demand, produce “records and papers which come into [their] possession” relating to specified acts “requisite to voting,” such as applications, registrations, and poll-tax payments. § 20701 governs the retention and preservation of records. It provides:

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives...are voted for, **all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting** in such election... (Emphasis added.)

§ 20703 governs the Attorney General’s demand for inspection, reproduction, and copying. It provides:

Any record or paper required by section 301 to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian by the Attorney General or his representative. This demand shall contain a statement of the basis and the purpose therefor. (Emphasis added.)

The statute’s language is expansive. Congress selected “all records and papers,” not merely original applications, individual registration cards, paper forms, or documents submitted directly by applicants. And Congress specified records relating to “any application” or “registration,” not only a discrete document that constitutes an application or registration in itself. The word “all” is comprehensive. The phrase “relating to” denotes a real connection with the enumerated subject

matter. *See Lamar, Archer & Cofrin, LLP v. Appling*, 584 U.S. 709, 719 (2018) (explaining that “respecting” ordinarily means “relating to” or “with reference to”).

Connecticut’s SVRL easily satisfies those terms. The SVRL is simply an aggregate of externally-sourced records (voter applications, inter-agency data, interstate exchanges, etc.) that themselves came into the Secretary’s possession and the list is covered as the compilation form of records that independently satisfy Title III, even if the database as a “thing-in-itself” did not “come into” her possession.

Connecticut maintains CVRS as its centralized voter registration system. Order at 8. That system is a “living database” of voter registration lists maintained by the State’s 169 municipalities, into which local election officials enter registration information and changes continuously. *Id.* The information includes voter names, name history, residence information, mailing addresses, dates of birth, party affiliations, registration dates, changes to registration information, motor-vehicle identification information, and voting history. *Id.* The SVRL is the statewide official compilation of this registration information. Order at 3-4, 8-10.

Even if one accepts the order’s premise that a compilation must itself “come into” the official’s possession, Title III does not categorically exclude government-generated records; historically, officials compiled internal indices that, when transmitted from one office to another, plainly “came into” recipient possession. By this logic, if the Secretary’s subordinates generate and transmit the

statewide voter list to her, she “comes into possession” of it within the ordinary meaning of the phrase, satisfying Title III.

In *Amicus*’s view, the majority reads an atextual “external-source” limitation into “come into possession” and misallocates focus from individual records to high-level compilations, contrary to the word “any” and the structure of § 20701. The order’s approach effectively allows states to avoid Title III disclosure duties by consolidating covered records into an aggregated format and labeling those aggregations as separate, self-generated databases.

A record does not relate to registration more directly than a statewide list showing who is registered, where those voters are registered, the status and history of their registrations, and the information used to administer those registrations. The SVRL is the State’s operative record of voter registration. It is not collateral to registration. It is central to the process by which the State registers voters, maintains their registration status, administers elections, and implements federal voter registration requirements.

The Supreme Court’s Title III decision in *United States v. State of Mississippi* confirms the statute’s protective function. There, the Court considered allegations that Mississippi had failed to comply with Title III after the State repealed a law requiring registrars to retain records made in connection with registration applications. 380 U.S. 128, 140–41 (1965). The Court treated Title III as a

congressional safeguard for records necessary to federal investigation and enforcement in the voting rights context. *Id.* The decision below adopts the opposite approach: it excludes the official statewide registration record that most completely reflects the State’s administration of voter registration.

The modern format of the record does not alter its statutory character. Congress did not make Title III’s coverage depend on whether registration information is maintained on a paper card, a municipal ledger, a computer file, a database entry, or a statewide electronic list. The question is whether the record is in the election official’s possession and relates to registration. The SVRL indisputably does.

B. The Phrase “Come into [the Official’s] Possession” Does Not Exclude Records Compiled, Maintained, or Generated by Election Officials from Registration Information in Their Custody and Control.

The district court held that the SVRL does not come into the Secretary’s possession because Connecticut election officials create the list. Order at 9–11. That conclusion adds a limitation Congress did not enact.

§ 20701 does not say, “records received from third parties.” It does not say, “documents submitted by prospective voters.” It does not say, “source documents in their original form.” Nor does it exclude records that an election officer or the officer’s staff compiles, organizes, aggregates, or generates while carrying out the

governmental function to which the records relate. The court's rule -- that a record lies outside the statute if the State has created it -- appears nowhere in Title III's text.

The ordinary meaning of possession refutes that artificial distinction. Possession includes custody, control, and the power to use or manage a record. The Secretary, acting through the State's centralized voter registration system, possesses the statewide voter registration information that local election officials transmit, enter, maintain, and use. The Secretary's possession is not negated because State officials arrange that information in an official statewide list.

Nor is the SVRL a record invented by the Secretary independent of any incoming information. The order recognizes that local election officials in each of Connecticut's 169 municipalities continually update local registration lists and input changes directly into CVRS. Order at 8–9. It further recognizes that the Secretary receives records and data from individual municipalities through CVRS and uses that information to create the SVRL. Order at 10. The information from which the SVRL is compiled therefore comes into the Secretary's statewide system and within her official custody, possession, and control.

The court's contrary rule would enable an election official to evade Title III simply by consolidating voter registration information into a statewide database or generating a statewide list from the information already held by the election system. That reading cannot be reconciled with Congress's choice to cover "all records and

papers” relating to registration. § 20701. A statute enacted to protect and make available registration records cannot reasonably be read to cover only atomized source materials while excluding the official statewide record created from those materials.

As aforementioned, the district court relied on *United States v. Benson*, 179 F.4th 470 (6th Cir. 2026), and a series of recent Trump-era district court decisions that followed it. Order at 9–11. Those decisions reasoned that “come into ...possession” means “acquire,” “obtain,” or “receive,” and that an official does not acquire or receive a SVRL that government personnel create. *Id.* But the premise does not sustain the conclusion. Connecticut does acquire and receive the underlying registration information through the statewide system. And nothing in § 20701 says that a record ceases to be in an official’s possession, or ceases to be covered, when an official compiles that information into the official centralized statewide registration list.

The statutory inquiry is not whether a third party delivered the final electronic output in precisely the same form later demanded by the Attorney General. It is whether the election official possesses a record related to registration. The Secretary does. That is enough under the language Congress chose.

II. THE SVRL’S CONTINUOUS MAINTENANCE DOES NOT PLACE IT OUTSIDE TITLE III.

A. Title III Contains No Static-record Exception.

The district court separately held that the SVRL's constant updating "demonstrates conclusively" that it does not fall within Title III. Order at 9. The statute supplies no basis for that conclusion.

§ 20701 applies to "all records and papers" relating to registration. It does not say "all static records," "all final records," "all records incapable of revision," or "all records maintained in a fixed paper form." It does not exclude a record because it is electronic, interactive, centrally administered, or updated as part of an ongoing governmental process.

The court's construction is especially difficult to reconcile with the statutory subject matter. Voter registration is inherently ongoing and has been well before the use of computers. Voters register; change residences; change names; update party affiliation; become ineligible; die; or otherwise experience changes that election officials must record. Congress used "registration," a continuing governmental function, as the very subject of Title III's retention requirement. It did not limit the statute to documents generated at the moment an individual first applies to register.

The fact that an official record changes over time does not make it any less a record. An official voter registration list remains a record of registration when it is updated, just as an official tax ledger, court docket, property register, or administrative file remains a record despite lawful additions and corrections. The

district court's contrary rule turns a routine characteristic of administration into a categorical exemption from federal record retention and inspection obligations.

That approach is incompatible with HAVA. HAVA requires each state to maintain a “single, uniform, official, centralized, interactive computerized statewide voter registration list.” § 21083(a)(1)(A) An “interactive” statewide list is, by ordinary meaning and statutory design, one capable of being updated and used in the regular administration of voter registration. Congress cannot reasonably be understood to have required states to maintain an interactive, centralized statewide voter registration list under HAVA while having already excluded that same official registration record from Title III because it is interactive and updated.

The same point follows from the NVRA. The NVRA requires states to conduct a general program making a reasonable effort to remove the names of ineligible voters from official lists of eligible voters on account of death or a change of residence. § 20507(a)(4). It further requires retention and public availability of records concerning programs and activities conducted to ensure the accuracy and currency of official voter lists. *Id.* § 20507(i)(1). The statutory scheme thus presupposes continuing administration and continuing record-keeping. The SVRL's dynamism is not a reason to place it beyond federal oversight. It is a necessary feature of the federally regulated voter registration system.

B. Section 20702 Criminalizes Willful Interference with Covered Records; It Does Not Criminalize Lawful Voter List Maintenance.

The court concluded that § 20702 confirms that Title III records must be fixed in time, reasoning that the provision's ban on willful alteration would otherwise criminalize the ordinary updates required by the NVRA and HAVA. Order at 11-12. That interpretation is untenable.

§ 20702 provides criminal penalties for any person who “willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 20701 of this title to be retained and preserved.” Its text does not prohibit every physical, clerical, or electronic change to every covered record. Rather, it proscribes willful conduct that is of the same general character as theft, destruction, concealment, and mutilation -- conduct that corrupts, suppresses, removes, or impairs the integrity or availability of records that federal law requires election officials to retain.

The neighboring verbs confirm the point. “Steals,” “destroys,” “conceals,” and “mutilates” all describe actions that deprive the government or the public of access to a record, compromise its integrity, or undermine its evidentiary value. Under the familiar *noscitur a sociis* principle, “alters” should be read in light of those accompanying terms. *See Yates v. United States*, 574 U.S. 528, 543 (2015) (plurality opinion) (explaining that a word is known by the company it keeps). The statute addresses destructive or deceptive manipulation, not accurate and legally required updating in the ordinary course of voter registration administration.

The word “willfully” independently forecloses the district court’s reading. Congress did not criminalize any alteration, regardless of purpose, authority, or legal obligation. It criminalized a willful alteration of a record required to be preserved. § 20702 cannot sensibly be construed to impose criminal punishment on an election official for conducting the list maintenance activity that the NVRA affirmatively requires or for maintaining the interactive statewide registration system that HAVA affirmatively requires.

The decision below instead reads § 20702 as though it said: “No covered record may ever be changed in any respect.” Congress did not enact that rule. It used a criminal prohibition aimed at willful misconduct. And it did so in a statute designed to ensure that election records remain available for federal inquiry, not to disable election officials from accurately administering voter registration.

The court’s fixed-record premise therefore cannot be inferred from § 20702. Neither the term “retain and preserve” in § 20701 nor the phrase “willfully . . . alters” in § 20702 creates an exception for a statewide list that officials must lawfully maintain.

III. TITLE III, THE NVRA, AND HAVA ARE COMPLEMENTARY FEDERAL ELECTION LAWS.

Courts should read federal statutes addressing a common subject harmoniously where, as here, their text permits doing so. The district court found that applying Title III to the SVRL would put Title III on a “collision course” with

the NVRA and HAVA. Order at 11-12. But the asserted conflict exists only because the court treated § 20702 as a blanket ban on all future updates to a covered record. That tortuous reading is incorrect for the reasons explained above.

The three statutes have compatible functions. Title III protects the availability of records relating to registration and other acts requisite to voting, and it gives the Attorney General an express means to inspect, reproduce, and copy those records upon a proper written demand. §§ 20701, 20703. The NVRA imposes affirmative voter registration and list maintenance obligations and requires states to retain records concerning activities undertaken to ensure voter list accuracy and currency. *Id.* § 20507(a)(4), (i)(1). HAVA requires the statewide registration system itself: a single, uniform, official, centralized, interactive computerized list containing the name and registration information of every legally registered voter in the state. *Id.* § 21083(a)(1)(A).

There is no contradiction in requiring a state to keep an accurate, current, interactive voter registration list while also requiring it to retain and make available registration-related records under Title III. To the contrary, Title III supplies a critical means for federal examination of whether a state is fulfilling the obligations that the NVRA and HAVA impose.

The order's construction inverts that relationship. It uses the fact that HAVA requires a centralized and interactive statewide list, and the fact that the NVRA

requires active list maintenance, to exclude the official statewide list from Title III. Under that rule, the more a state complies with HAVA's centralized system command and the NVRA's list currency requirements, the less accessible its operative registration records become to the Attorney General under Title III.

Congress enacted no such anomaly. The appropriate construction gives each statute effect: states must maintain accurate and current registration systems under the NVRA and HAVA, and records relating to that registration system remain subject to Title III's retention and inspection provisions.

IV. CONSTITUTIONAL BASIS FOR FEDERAL ACCESS

The Elections Clause assigns primary responsibility for regulating the "Times, Places and Manner" of federal elections to the states but gives Congress power to "make or alter" those regulations. U.S. Const. art. I, § 4, cl. 1. Once Congress enacts federal-election rules, state authority is derivative and may not be used to frustrate or nullify those commands, including as to voter registration and recordkeeping.

SVRLs are themselves part of the "Manner" of federal elections. Congress has chosen to regulate this domain through statutes like the NVRA, HAVA, and Title III, and those federal enactments necessarily carry with them authority to obtain the information needed to enforce them.

NVRA was passed to "establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal Office;" "protect the

integrity of the electoral process;” and “ensure that accurate and current voter registration rolls are maintained.” § 20502(b)(1),(3),(4). NVRA requires every state to conduct “a general program that makes a reasonable effort” to remove ineligible registrants. § 20507(a)(4). The statute mandates, in detailed instruction, that they keep records of list maintenance activities and “make such records available for public inspection.” § 20507(i)(1).

Congress further authorized the Attorney General to sue states to enforce these obligations, which presupposes access to underlying registration data sufficient to assess compliance. § 20510(a) of the NVRA provides, “The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out this chapter.” *Amicus* submits that it would be inconsistent with NVRA/HAVA’s enforcement design to read Title III in a way that denies the DOJ⁵ meaningful access to the statewide voter lists needed to evaluate ‘reasonable effort’ compliance.

As discussed *supra*, HAVA requires states to maintain computerized SVRLs and to implement systems that remove ineligible voters while protecting eligible voters from erroneous removal. § 21083(a)(1)(A) and (a)(2)(A)–(B). This statute also gives the DOJ enforcement authority, which is meaningless if federal officials

⁵ “Attorney General,” “United States,” and “DOJ” are used interchangeably throughout this brief.

can be blocked from obtaining the very database whose compliance they must evaluate. § 21111. DOJ guidance on federal election law underscores that enforcement of voting rights and election crimes provisions “often depend[s] on documentation generated during the voter registration, voting, tabulation, and election certification processes.”⁶ DOJ Guidance, 2. These obligations extend to electronic records and their purpose is to ensure federal investigators can access records needed to enforce voting rights and election crime statutes.

Title III is a direct federal regulation of election records for federal contests. It was enacted to secure meaningful federal access to records necessary to investigate and enforce federal protections for voting rights. *See United States v. State of Mississippi*, 380 U.S. 128, 140–41 (1965). The court’s interpretation would frustrate that function in the contemporary setting. States may regulate time, place, and manner in the first instance, but Congress has already “made or altered” those regulations by specifying retention, preservation, and federal inspection rights. A state cannot redefine its own role to override an express federal authorization for DOJ inspection.

⁶ “Federal Law Constraints on Post-Election ‘Audits’” published July 28, 2021 (“DOJ Guidance”) <https://www.justice.gov/archives/opa/press-release/file/1417796/dl> (last accessed August 21, 2026) citing *The Federal Prosecution of Election Offenses, Eighth Edition 2017* at 75.

NVRA, HAVA, and Title III contemplate the DOJ as the primary enforcer of federal voting rights and election crime statutes. Giving the DOJ full, unredacted access provides the agency the data necessary for enforcing election integrity. By contrast, allowing states to withhold data wholesale impedes federal oversight while doing nothing to prevent misuse at the state level.

CONCLUSION

Connecticut's SVRL is itself a Title III record; its electronic, centralized, and continuously maintained character neither removes it from § 20701 nor creates a conflict with § 20702, the NVRA, or HAVA. The district court's order makes precisely the two categorical errors the amicus should confront—an atextual “self-created record” exclusion and an atextual “dynamic record” exclusion.

The Court should reverse the judgment of the district court and hold that Connecticut's statewide voter registration list is a record within the scope of 52 U.S.C. §§ 20701 and 20703.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation for an *amicus* under the Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 4,638 words, excluding the parts exempted by the Federal Rule of Appellate Procedure 32(f).

This brief also complies with the typeface requirements of the Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(2)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Microsoft 365 in a 14-point Times New Roman font.

Dated: September 28, 2026

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed on September 28, 2026 with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the Court's Electronic Filing System which will send notification of that filing to all counsel of record in this litigation.

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