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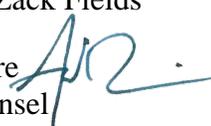
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MEMORANDUM

February 17, 2026

SUBJECT: Voter information shared with the Department of Justice
(Work Order No. 34-LS1434)

TO: Representative Zack Fields

FROM: Andrew Dunmire 
Legislative Counsel

AS 15.07.195(a) provides that the following information in a voter's registration record is confidential:

- (1) the voter's age or date of birth;
- (2) the voter's social security number, or any part of that number;
- (3) the voter's driver's license number;
- (4) the voter's voter identification number;
- (5) the voter's place of birth;
- (6) the voter's signature.

A voter may also elect to keep their residential address confidential by providing a separate mailing address.¹ There is, however, an exception to this confidentiality rule: the Division of Elections (division) may provide confidential information to a federal agency in order to comply with federal law if the federal agency "use[s] the information only for governmental purposes authorized under law"²

The division recently provided the statewide voter registration list (VRL) to the Department of Justice (DOJ). The VRL contains, for every voter, information that the statute above makes confidential. In the press release announcing that this information was given to the DOJ, the division stated that the "Lieutenant Governor oversees the Alaska Division of Elections and is authorized under Alaska Statute 15.07.195(c)(1) to provide confidential voter information to a federal agency, if that agency only uses it for government [sic] purposes authorized by law."³

You asked whether the division violated any law when it disclosed this confidential

¹ AS 15.07.195(b).

² AS 15.07.195(c)(1).

³ Division of Election press release, December 23, 2025, *Lt. Governor Submits Alaska Voter Registration List to the U.S. Department of Justice*.

information to the DOJ. The answer to your question hinges on whether DOJ requested the information "in compliance with federal law" and uses "the information only for governmental purposes authorized under law," as required under AS 15.07.195(c)(1).

Background

On July 2, 2025, the DOJ sent a letter to the division requesting "information regarding the State's procedures for complying with the statewide voter registration list maintenance provisions of the National Voter Registration Act ('NVRA'), 52 U.S.C. § 20501 et seq."⁴ In that letter, the DOJ asserted "that there are more registered voters listed as active in the State of Alaska than citizen voting age population [sic] in the State." The letter went on to assert that the NVRA requires each state to make available for inspection certain voting records and cited the following federal statute:

(i) Public disclosure of voter registration activities

(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.⁵

The DOJ requested a copy of the "most current or most updated electronic copy of the State of Alaska's computerized statewide voter registration list . . . as required by Section 303(a) of the Help America Vote Act." Under sec. 303 of the Help America Vote Act (HAVA) the state is required to maintain a single centralized electronic list "that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State."⁶ The DOJ letter asked the division to provide "all fields contained within the" VRL, which would necessarily include material that is declared confidential under AS 15.07.195.

The division sent the DOJ a response letter on August 4, 2025. That letter documented the state's efforts to maintain its voter list over the previous five years and explained "why Alaska reports more active registered voters than its citizen voting age population" The division's letter did not cite to the confidentiality requirement in AS 15.07.195, but it did say it was responding to DOJ's request "for records under the NVRA" by providing a "copy of the publicly available statewide voter registration list."

⁴ I have obtained this letter and all other correspondence referred to in this memo through publicly available media reports that provided access to the source documents. Our office will provide your office a copy of any of these documents upon request.

⁵ 52 U.S.C. 20507(i)(1).

⁶ 52 U.S.C. 21083(a).

Not satisfied with receiving the publicly available information, on August 14 the DOJ sent a letter to the Lieutenant Governor demanding "*all fields*, including the registrant's full name, date of birth, residential address, his or her state driver's license number or the last four digits of the registrant's social security number" ⁷ This letter asserted that the DOJ needed the information "to assess [Alaska's] compliance with the statewide VRL maintenance provisions of the" NVRA. The letter also stated that DOJ's request was brought "pursuant to the Attorney General's authority under Section 11 of the NVRA to bring enforcement actions." ⁸

As additional authority for its demand to access Alaska's VRL, the DOJ letter also cited sec. 401 of the Help America Vote Act (HAVA), ⁹ and Title III of the Civil Rights Act of 1960 (CRA). ¹⁰ The letter asserted that these three federal laws required the division to share the requested information and reiterated that Alaska's entire VRL (including confidential information) should be provided:

Pursuant to the foregoing authorities, including the CRA, the Attorney General is demanding an electronic copy of Alaska's complete and current VRL. The purpose of the request is to ascertain Alaska's compliance with the list maintenance requirements of the NVRA and HAVA.

When providing the electronic copy of the statewide VRL, Alaska must ensure that it contains *all fields*, which includes the registrant's full name, date of birth, residential address, his or her state driver's license number or the last four digits of the registrant's social security number as required under [HAVA] to register individuals for federal elections. ¹¹

That quoted passage of the letter contained a footnote that asserts state privacy laws cannot prevent states from providing the requested information to DOJ:

In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that Justice Department be able to conduct an independent review of each state's list. Any statewide prohibitions are clearly preempted by federal law.

⁷ Emphasis in source.

⁸ This sentence in the DOJ letter erroneously cites 52 U.S.C. 20501(a). Sec. 11 of the NVRA is codified at 52 U.S.C. 20510(a).

⁹ Codified at 52 U.S.C. 21111.

¹⁰ Codified at 52 U.S.C. 20701 – 20706.

¹¹ Emphasis in source.

After receiving this letter, the division agreed to DOJ's request. On December 19, 2025, Lieutenant Governor Dahlstrom sent a letter to the DOJ stating that AS 15.07.195(c)(1)—the confidentiality statute described at the very beginning of this memo—authorized the division to disclose Alaska's entire VRL:

Per your written request dated August 14, 2025, the State of Alaska agrees to provide the Department of Justice a complete list of eligible, registered voters, including dates of birth, residential addresses, and driver's license numbers or the last four digits of social security numbers, in accordance with the attached memorandum of understanding, entered at the request of the Department of Justice, and AS 15.07.195(c)(1). This statute allows the Division of Elections to share voters' confidential information with a federal government agency, such as the Department of Justice, provided it uses 'the information only for governmental purposes authorized under law.'

As stated in the memorandum of understanding, the Department of Justice will use Alaska's voter list to test, analyze, and assess the State's compliance with federal laws, including the [NVRA] and [HAVA]. The Department of Justice and any other recipients of the voter list will comply with the Privacy Act of 1974. Alaska will continue to comply with all state and federal laws while implementing this memorandum of understanding.

The memorandum of understanding (MOU) largely summarized the legal arguments recounted above. It asserted that the DOJ is entitled to Alaska's complete voter registration list under the NVRA, HAVA, and the CRA. The MOU also stated that the DOJ will analyze Alaska's voter list for irregularities and notify the state of its findings:

The Justice Department is requesting your state's VRL to test, analyze, and assess states' VRLs for proper list maintenance and compliance with federal law. In the event the Justice Department's analysis of a VRL results in list maintenance issues, insufficiency, inadequacy, anomalies, or concerns, the Justice Department will notify your state's point of contact of the issues to assist your state with curing.

The self-declared purpose of the MOU was "to establish the parties' understanding as to the security protections for data transfer and data access by the" DOJ of the data contained in Alaska's VRL. To that end, the MOU contains a number of provisions relating to data access and security.

With that background, you asked whether it was legal for the division to provide the VRL to the DOJ.

Legal Analysis

The DOJ's request for state voter data is unprecedented. When the division agreed in December 2025 to give Alaska's VRL to the DOJ, there was no caselaw interpreting the NVRA, HAVA, or the CRA in a manner that supported DOJ's demand to access the data. But neither did any caselaw exist that refuted the DOJ's position. Instead, DOJ's demand for voter information relied upon a novel interpretation of the text of those three federal laws.

Multiple states refused DOJ's request, which has resulted in litigation that is now working its way through federal courts across the country. So far, three district courts have substantively ruled on the issue, and all three rejected DOJ's argument that it is entitled to state VRLs.¹²

In California, the DOJ filed a lawsuit against the Secretary of State (Shirley Weber) seeking the state's complete VRL. Just like it did in Alaska, the DOJ there asserted that it was entitled to the unredacted information under the NVRA, HAVA, and the CRA. But the court found that Congress passed those laws to protect the right to vote, not to give the federal government access to confidential information about voters:

The pieces of legislation at issue in this litigation were not passed as an unrestricted means for the Executive to collect highly sensitive information about the American people. It is not for the Executive, or even this Court to authorize the use of civil rights legislation as a tool to forsake the privacy rights of millions of Americans. That power belongs solely to Congress.¹³

The California federal court then engaged in a detailed analysis of all three laws.

The NVRA, the court found, "only permits investigations into states' policies regarding reasonable voter roll maintenance. Nothing in the statute suggests as acceptable the deep level of intrusive digging DOJ is proposing in its request for line-by-line voter roll data. The DOJ makes no persuasive argument for why this large amount of unredacted voter information is necessary to evaluate state policies. Therefore, the DOJ's NVRA claims fail."¹⁴

¹² A fourth court, the U.S. District Court for the Middle District of Georgia, dismissed DOJ's case on procedural grounds. *United States v. Raffensperger*, No. 5:25-CV-00548-CAR, 2026 WL 184233 at *4 (M.D. Ga. Jan. 23, 2026) ("[T]his Court finds it lacks subject matter jurisdiction over this action and dismisses this action without prejudice." (emphasis omitted)).

¹³ *United States v. Weber*, No. 2:25-CV-09149-DOC-ADS, 2026 WL 118807, at *1 (C.D. Cal. Jan. 15, 2026).

¹⁴ *Id.* at *13.

The court further found that California's privacy law—which is stronger than Alaska's privacy law—was not preempted by the NVRA:

Even if disclosure of records was required, California's privacy laws would not be preempted. California law requires that 'the California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification are confidential and shall not be disclosed to any person.' . . .

The NVRA and California's privacy protections can coexist because the latter does not obstruct the former. Nothing in the NVRA prevents redaction of sensitive voter information as California law requires. Furthermore, courts have routinely allowed for the redaction of sensitive voter information under the NVRA.¹⁵

Thus, the court ruled, the NVRA did not entitle the DOJ to access to California's VRL.

The court similarly rejected DOJ's claims under HAVA. It first noted that HAVA does not contain any language that requires states to disclose data.¹⁶ While it is true that the Attorney General has authority to enforce HAVA, she cannot use that authority to go on fishing expeditions for violations of HAVA. Yet that is exactly what DOJ attempted to do, according to the court: DOJ "simply fail[ed] to allege any violation of HAVA. Even the federal government is not permitted to sue first, obtain discovery, and finalize its allegations later. This appears to be a telltale 'fishing expedition.' District courts do not 'condone the use of discovery to engage in fishing expeditions' when the Plaintiff has no basis other than 'gross speculation' to support their claims."¹⁷ The court, accordingly, found that HAVA—like the NVRA—does not preempt California's privacy law.¹⁸

¹⁵ *Id.* at *13–14 (cleaned up).

¹⁶ *Id.* at *15 ("Without a statutory provision allowing for disclosure or inspection authority, a government agency—like the DOJ—cannot claim to have that remedy tacked on to the text of the statute. . . . HAVA simply contains no such provision. This ends the inquiry.")

¹⁷ *Id.* at *15. (quotation and citation omitted).

¹⁸ *Id.* at *17 ("Even if California had been alleged to violate HAVA and even if it was required to disclose its voter registration list, there is nothing in HAVA that would require California to produce an unredacted copy of this list. California law mandates that any such voter registration list be properly redacted and indeed prohibits the production of an unredacted voter list. HAVA contains no disclosure provision.").

Finally, under the DOJ's CRA claim, the court found that the historical purpose of Title III of the CRA was to detect racial discrimination in voting. In contrast, the DOJ claimed its purpose behind its CRA request was "voter roll maintenance enforcement and compliance."¹⁹ The court rejected that argument, noting that the CRA was enacted 33 years before the NVRA, and uniform, centralized voter lists "were not even required until the passage of HAVA in 2002."²⁰ Consequently, DOJ's stated purpose was outside the scope of what Congress intended the CRA to be used for. (Furthermore, even if it was in the scope, the DOJ did not justify that it was entitled to an unredacted VRL, because the relevant part of the CRA "was meant to provide the DOJ access to 'public records which ought ordinarily to be open to legitimate reasonable inspection.' [It] was not conceived by Congress to provide access to 'confidential, private papers and effects.'"²¹)

The court additionally found that representations made by DOJ outside of the litigation painted "a starkly different picture" that called into question the DOJ's in-court representations.²² The court found that DOJ "obfuscate[ed] its true motives in the present matter."²³

Having rejected all three bases underlying the DOJ's request, the court denied its claim that it was entitled to California's unredacted VRL.

A couple weeks later, on February 5, the U.S. District Court for the District of Oregon issued a similar ruling. In *United States v. State of Oregon*, the DOJ once more sued a secretary of state seeking access to his state's unredacted VRL.²⁴ As in California and Alaska, the DOJ raised claims under the NVRA, HAVA, and the CRA.

The Oregon court, like the California court, ruled against the DOJ on all three claims. To very briefly summarize the court's opinion, it found that (1) nothing in the NVRA requires the disclosure of sensitive personal information;²⁵ (2) the DOJ failed to identify

¹⁹ *Id.* at *9.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at *10 ("Representations by the DOJ itself show that their requests to states for voter roll data go beyond their purported compliance check with the NVRA and into the territory of comprehensive data collection.").

²³ *Id.* at *12.

²⁴ No. 6:25-CV-01666-MTK, 2026 WL 318402 (D. Or. Feb. 5, 2026).

²⁵ *Id.* at *6 ("[N]othing in the text of the NVRA prohibits the appropriate redaction of uniquely or highly sensitive personal information" contained in voter registration lists." (quoting *Public Interest Legal Foundation v. Bellows*, 92 F.4th 36, 56 (1st Cir. 2024))).

any provision of HAVA that Oregon violated when it failed to produce an unredacted list;²⁶ and (3) that the CRA does not require Oregon to disclose "Sensitive Voter Data," and that the DOJ failed to "state a claim that Oregon violated [the CRA] by failing to produce an unredacted copy of its voter registration list."²⁷ Just like the California court, the Oregon court was troubled by statements DOJ made outside the litigation.²⁸ The court, in fact, was so troubled by DOJ's conduct that it held the presumption of regularity (a legal doctrine under which courts presume public employees lawfully discharge their duties) no longer applied the DOJ.²⁹ Consequently, the court held that DOJ was not entitled to an unredacted state voter list.

Most recently, the U.S. District Court for the Western District of Michigan came to the same conclusion and ruled that neither the NVRA, HAVA, nor the CRA authorize the DOJ to access confidential state voter information.³⁰ This decision, however, had a different reason for rejecting DOJ's claim under the NVRA. Rather than finding an expectation of privacy in that federal law, the court looked to the text of 52 U.S.C. 20507(i)(1). That statute (which is quoted in full near the beginning of this memo) declares that states "shall make available for public inspection . . . *all records concerning the implementation of programs and activities* conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters . . ." (emphasis added). The Michigan court focused on the italicized language, finding that a voter registration file—with confidential personal data—is not a "record concerning the implementation" of a program to ensure "the accuracy and currency of official lists of

²⁶ *Id.* at *7.

²⁷ *Id.* at *12.

²⁸ *Id.* at *13 ("Lastly, [DOJ's] words and actions outside of the four corners of its Complaint in this case, including statements that it intends to create a nationwide database of confidential voter information and use it in unprecedented ways, including immigration enforcement efforts, is chilling. The possibility that Oregon's voter registration list could be used to further these efforts in the absence of congressional action, may very well lead to an erosion of voting rights and voter participation.").

²⁹ *Id.* at *11 ("Plaintiff's conduct and written demands on states for disclosure of their highly sensitive voter information should not be ignored. . . . The presumption of regularity that has been previously extended to Plaintiff that it could be taken at its word—with little doubt about its intentions and stated purposes—no longer holds. When Plaintiff, in this case, conveys assurances that any private and sensitive data will remain private and used only for a declared and limited purpose, it must be thoroughly scrutinized and squared with its open and public statements to the contrary.")

³⁰ *United States v. Benson*, No. 1:25-CV-1148, 2026 WL 362789 (W.D. Mich. Feb. 10, 2026).

eligible voters:"

In sum, a natural reading of § 20507(i) suggests that it requires states to disclose information regarding the process by which they maintain their voter registration list but not the list itself.³¹

And so the Michigan court became the third federal court to reject DOJ's argument under the NVRA, although it ruled on a different basis than the other two.

On the other two arguments (HAVA and the CRA), the Michigan court reached the same conclusion as the California and Oregon courts and rejected DOJ's arguments. For the sake of brevity I will not summarize its analysis under those claims, but I have attached the Michigan decision and encourage you to review it. I believe that, of the three judicial opinions so far, this one most clearly frames and analyzes the issues.

With that summary of the current state of litigation, we can return to your question. When the Division of Elections agreed to provide Alaska's VRL to the DOJ in December, no court had ruled that DOJ was barred from obtaining the confidential information. But the DOJ has since filed over two dozen lawsuits against states that rejected its records requests, and at this point every federal court that has issued a substantive ruling has rejected DOJ's claims. No federal court has ruled in favor of the DOJ. Consequently, it appears that judges are not finding DOJ's interpretation of the NVRA, HAVA, and the CRA persuasive.

AS 15.07.195(c)(1) only permits the division to share confidential voter data with federal agencies when two conditions are met: (1) the disclosure must be "in compliance with federal law," and (2) the receiving agency must "use the information only for governmental purposes authorized under law." But if, as courts are now finding, compelled disclosure of Alaska VRL was not "in compliance with" the NVRA, HAVA, or the CRA, then the first requirement of AS 15.07.195(c)(1) was not met.

Similarly, as detailed above, some federal courts are finding that the DOJ is not seeking confidential VRLs "for governmental purposes authorized under law," but is instead "obfuscate[ing] its true motives"³² and "engag[ing] in conduct raising suspicion about the purposes for which it seeks statewide unredacted voter registration lists."³³ If those findings are found to be true and the DOJ is not using Alaska's VRL for "governmental purposes authorized under law," then disclosure of the confidential data under AS 15.07.195(c)(1) was improper.

³¹ *Id.* at *6.

³² *United States v. Weber*, at *12.

³³ *United States v. State of Oregon*, at *11.

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However, please keep in mind that none of the three judicial opinions discussed above are binding in Alaska, and the law on this topic is sure to develop further as more decisions are published and the ongoing cases are appealed. If you would like to monitor developments in these cases, the National Conference of State Legislatures maintains an active webpage on the topic.³⁴

Finally, you also asked whether the state could join pending litigation or pursue other remedies. The lawsuits that I am aware of all involve states that refused DOJ's request. Because Alaska already gave its voters' data to the DOJ, it is too late to block disclosure. Perhaps the state could file amicus briefs in other pending cases, but I suggest you direct that question to the Department of Law. As for other remedies, our office can draft a bill that strengthens the confidentiality provision of AS 15.07.195 to prevent a similar disclosure from happening in the future, but this is a bell that cannot be unrung – the DOJ already obtained the confidential data it sought. The Legislature often uses resolutions to express disapproval of prior action, and our office can draft an appropriate resolution if you would like to pursue that route.

Please call me if you have further questions.

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26-049.mis

Attachment

³⁴ Available at <https://www.ncsl.org/elections-and-campaigns/federal-requests-for-statewide-voter-lists>.